

CLAIMS/SUMMONS NO.

SUBPOENA WRIT OF MANDATE

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 15 2015

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Susan Nash (State Bar # 122533)
Law Office of Susan Nash
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Attorney for Petitioners/Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

15 SEP 16 PM 4: 14
CITY CLERK
MORENO VALLEY
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**ALBERT THOMAS PAULEK;
FRIENDS OF THE NORTHERN SAN
JACINTO VALLEY,**

Petitioners/Plaintiffs,

vs.

**CITY OF MORENO VALLEY; AND
DOES 1 through 20 inclusive**

Respondent,

**HIGHLAND FAIRVIEW, a privately
held real estate development
company, and Does 21 through 50,
inclusive**

Real Party in Interest

Case No. 201510967

**PETITION FOR WRIT OF MANDATE
AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

[Code Civil Proc. §§ 1085 and 1094.5; Pub.
Res. Code § 21000, *et seq.* (California
Environmental Quality Act)]

Case Designation: CEQA

INTRODUCTION

- 1
2 1. In this action, Petitioners and Plaintiffs Albert Thomas Paulek (Paulek) and the
3 Friends of the Northern San Jacinto Valley (Friends) challenge the August 19,
4 2015 decision by the Moreno Valley City Council (Respondent) to approve the
5 World Logistics Center Project (WLC or Project) and certify the Environmental
6 Impact Report (EIR) for the Project.
- 7
8 2. The Project evaluated in the Draft EIR (SCH No. 2012021045) covers 3918 acres
9 and proposes a maximum of 41.4 million square feet of “high-cube logistics”
10 warehouse distribution uses classified as “Logistics Development” (LD) and
11 200,000 square feet of warehouse-related uses classified as “Light Logistics” (LL)
12 on 2,710 acres with the WLC Specific Plan. Project refers to all related
13 development and planning activities currently proposed by Highland Fairview
14 (Real Party in Interest) in the eastern end of the City of Moreno Valley. The
15 Project site is generally located south of SR-60, east and north of Mystic Lake and
16 the San Jacinto Wildlife Area managed by the California Department of Fish and
17 Wildlife (CDFW) in Trust for the People of California. The Draft EIR “Project
18 Area” refers to the entire 3,918-acre area covered by the EIR, which encompasses
19 (a) the Specific Plan Area (2,710 acres); (b) the CDFW Conservation Buffer Area
20 (910 acres) (c) the Public Facilities Land Area (194 acres); and (d) the Off-site
21 Improvement Area (104 acres).
- 22
23 3. Over 30 years ago, the SJWA was established as a mitigation site for the State
24 Water Project, the transformative project that brought northern California water
25 to southern California. Over the ensuing years the State of California’s Wildlife
26 Conservation Board continued to acquire lands and secure a long-term recycled
27 water source for the new wildlife area. Today, the SJWA includes 19,000 acres of
28 plant and animal habitats managed by the CDFW. The SJWA includes the 10,000
acre Davis Road Unit, which shares a common property line with the southern
boundary of the WLC Specific Plan and the easterly 9,000 acre Potrero Creek
Unit. The SJWA represents over a \$90 million dollar public investment in wildlife
conservation and has developed into the most significant state wildlife
conservation site in southern California.
4. The Riverside County Habitat Conservation Agency (RCHCA) was formed in 1990

1 for the purpose of planning, acquiring and managing habitat for the Stephens'
2 kangaroo rat (SKR) and other endangered, threatened and candidate species. The
3 RCHCA is a Joint Powers Agreement agency. The City of Moreno Valley is a
4 signatory to the SKR Incidental Take Permit [Implementation Agreement (IA)]
5 allowing the "take" of SKR and designating the SJWA a "Core Reserve" [SKR
6 Conservation Area] pursuant to the federal Endangered Species Act, 16 U.S.C.
7 §1531 et seq. and the State Natural Community Conservation Planning Act [Fish
8 and Game Code §§ 2800-2835).

- 9 5. The Western Riverside County Regional Conservation Authority (RCA) was
10 created in 2004 to implement the Multiple Species Habitat Conservation Plan
11 (MSHCP) protecting 146 native species of plants and animals. The City of Moreno
12 Valley is a signatory to the MSHCP Incidental Take Permit [Implementation
13 Agreement (IA)] allowing the "take" of MSHCP covered plants and animals and
14 designating the SJWA "Conserved Habitat" pursuant to the federal Endangered
15 Species Act, 16, U.S.C. § 1531 et. Seq. and the state Natural Community
16 Conservation Planning Act (Fish and Game Code §§ 2800-2835).
- 17 6. The CEQA review of the Project recognized numerous significant impacts
18 resulting from the construction and subsequent operation of the WLC Specific
19 Plan. The Specific Plan proposes a massive warehouse development immediately
20 adjacent to the environmentally sensitive public lands of the SJWA and Lake
21 Perris State Recreation Area. These public lands are now designated "Core
22 Reserves" and "Conserved Habitat" under the SKRHCP and the MSHCP.
- 23 7. Instead of disclosing and analyzing the impacts on the environment in order to
24 address the Project's significant impacts, the EIR fails to provide a complete and
25 accurate depiction of the Project and its environmental setting. As a result of the
26 EIR's flawed analysis, environmental impacts were dismissed without substantial
27 evidence and contrary to the California Environmental Quality Act (Pub. Res.
28 Code § 21000 et seq. "CEQA")
8. The EIR also fails to follow the substantive mandate of CEQA and neglects to
require adoption of feasible mitigation measures and alternatives that would
lessen the Project's significant impacts, especially those related to Biological
Resources.

1 9. Petitioners accordingly request that this Court issue a writ of mandate under Cal.
2 Code of Civil Procedure §§ 1085 and 1094.5 directing Respondent to vacate and
3 set aside the approval of the Project and certification of the EIR. This request is
4 based on the following allegations:

5 **JURISDICTION AND VENUE**

- 6 10. This Court has jurisdiction over this action pursuant to sections 1085, 1094.5, 187,
7 and 526 of the California Code of Civil Procedure, and sections 21168 and 21168.5
8 of the Public Resources Code.
- 9 11. Venue for this action properly lies in the Riverside County Superior Court because
10 Respondent and the proposed site of the Project are located in Riverside County.

11 **THE PARTIES**

- 12 12. Petitioner/Plaintiff ALBERT THOMAS PAULEK (Paulek) is a retired (28.5 years)
13 Department of Fish and Wildlife Associate Wildlife Biologist and was the area
14 manager of the Department's SJWA from 1991 to 2006. Paulek is a Certified
15 Wildlife Biologist having extensive knowledge and experience working with the
16 wildlife resources and conservation programs of western Riverside County and the
17 state of California. Paulek participated in the CEQA review of the Project as an
18 individual and as the Conservation Chair of the Friends of the Northern San
19 Jacinto Valley. Petitioners seek to compel the City of Moreno Valley to properly
20 implement its CEQA duties to avoid and mitigate Project impacts to the plant and
21 animal resources of western Riverside County and the state of California and to
22 conserve existing and future wildlife habitat values of the San Jacinto Wildlife
23 Area.
- 24 13. Petitioner/Plaintiff the FRIENDS OF THE NORTHERN SAN JACINTO VALLEY
25 (Friends) is a California non-profit conservation group dedicated to preserving
26 and protecting the northern San Jacinto Valley, the San Jacinto Wildlife Area, and
27 surrounding environmental resources. Friends' members reside and recreate in
28 the San Jacinto Valley area of Riverside County. The organization sponsors
regular nature walks and environmental restoration activities at the SJWA and
works to influence a wide variety of land use issues that affect the SJWA, Mystic

1 Lake, and the northern San Jacinto Valley.

2 14. Petitioners presented written comments and objections during the administrative
3 hearings on this matter being challenged in this petition. Petitioners and their
4 members would be directly, adversely and irreparably affected if the Project
5 proceeds. Petitioners would continue to be prejudiced by the Project and its
6 components, as described herein, until and unless this Court provides the relief
7 prayed for in this petition.

8 15. Respondent CITY OF MORENO VALLEY was incorporated in 1984 as a general
9 law city. A council-manager government governs the City. The City is divided
10 into five districts, each of which elects a representative to the city council. On
11 August 19, 2015, the Moreno Valley City Council voted to approve the World
12 Logistics Center Specific Plan and certified the Final EIR for the Project.

13 16. Does 1 through 20, inclusive are persons presently unknown to Petitioners, which
14 are subdivisions or officers of the City or state of California, who are responsible
15 for the actions described herein or for carrying out the functions of the city or
16 state and who may be affected by this litigation. Petitioners will amend this
17 petition to specifically identify each respondent as required and as the capacity
18 and identity of each respondent becomes known.

19 17. Petitioners are informed and believe and based thereon allege that the Real Party
20 in Interest HIGHLAND FAIRVIEW is a privately held real estate development
21 company specializing in large scale industrial, commercial, and residential
22 developments. Iddo Benzeevi is the President/Chief Executive of Highland
23 Fairview. Highland Fairview is the developer of the Project and is headquartered
24 in the City of Moreno Valley. Highland Fairview is the recipient of the August 19,
25 2015, Moreno Valley City Council approval of the Project.

26 18. Does 21-50, inclusive, are persons presently unknown to petitioners and who have
27 a legal interest in the project being challenged herein, or are the property owners,
28 developers, or others with a legal or equitable interest in the real property at issue
herein. Petitioner will amend this petition to specifically identify each such
respondent as required and as capacity and identity of each such respondent
becomes known.

GENERAL ALLEGATIONS

19. Petitioners hereby re-allege and incorporate the allegations set forth in paragraphs 1 through 18 inclusive.
20. The public lands of the San Jacinto Wildlife Area immediately south and contiguous with the WLC Specific Plan southern boundary were acquired by the state Wildlife Conservation Board (WCB) in fee simple in May 2001. The WCB minutes of May 18, 2001¹ indicates the acquisition of these public lands was funded using the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000 (Proposition 12).
21. The May 18, 2001 WCB minutes indicate funding for these wildlife conservation lands was made pursuant to Proposition 12 § 5096.350 (a)(3) T & E for the restoration or acquisition from a willing seller of habitat for threatened and endangered species or for the purpose of promoting the recovery of those species. Proposition 12 made the funds available for expenditure by the WCB for “acquisition, development, rehabilitation, restoration and protection of real property benefiting fish and wildlife, for the acquisition, restoration, or protection of habitat that promotes the recovery of threatened, endangered or fully protected species, maintain the genetic integrity of wildlife populations and serves as corridors linking otherwise separate habitat to prevent habitat fragmentation...”
22. The Western Riverside County Regional Conservation Authority (RCA) was created in 2004 to implement the Multiple Species Habitat Conservation Plan (MSHCP). The MSHCP impetus is to assure the conservation of 146 species of plants and animals on designated reserve lands [the SJWA is the most significant MSHCP core reserve] in order to mitigate the “take” [loss] of species incidental to the development of lands not designated for MSHCP conservation. Similarly, the SKR Habitat Conservation Plan [state and federal endangered species “take” permits] includes the SJWA as a primary “core” reserve to mitigate the incidental habitat impact resulting from the development of lands not designated for SKR conservation.
23. Of the 1.26 million acres covered by the MSHCP, 500,000 acres are designated for

¹ Submitted with Petitioner’s comment letters on the Draft EIR, April 5, 2013 and the Final EIR, June 9, 2015, for inclusion in the administrative record.

1 wildlife conservation. Of that half million acres, 347,000 acres were already
2 conserved as public or quasi-public land. The acquisition of the remaining
3 153,000 acres [additional reserve lands] for MSHCP wildlife conservation is the
4 primary function of the RCA. After the 2004 approval of the MSHCP, the 2001
5 WCB Proposition 12 land acquisitions of approximately 1,000 acres were
6 immediately included in the MSHCP Conservation Area and Counted toward the
7 Additional Reserve Lands.

8 24. In February 2012 the CEQA Notice of Preparation (NOP) of a Draft EIR was
9 circulated to the public, Trustee and Responsible agencies for comment.
10 Petitioner's March 22, 2012 NOP response letter advised the City of Moreno
11 Valley that the NOP was deceptive in that the WLC Specific Plan wrongly
12 identified the public lands acquired by the WCB in May 2001 as the "CDFW
13 Conservation Buffer Area". Similarly, the March 22, 20112 NOP response letter
14 from the California Department of Fish and Game², the state agency having
15 jurisdiction by law over fish and wildlife resources, advised the City of Moreno
16 Valley regarding the defective Project description, the need for compliance with
17 the requirements of CEQA, the MSHCP, the SKRHCP and the incidental "take"
18 permits for endangered, threatened, and/or candidate species (Fish and Game
19 Code § 2800 et seq.)

20 25. The Draft EIR was released for public and agency review in February 2013. The
21 CEQA review presented by the City of Moreno Valley and the Project proponent
22 fashioned straw man fallacies using the "CDFW Conservation Buffer Area" and
23 the SJWA "Open Space" designation. In doing so they sought to avoid addressing
24 the mandatory significant impacts to biological resources the WLC will have. The
25 straw man fallacies were presented in the EIR to avoid the required CEQA
26 consideration of significant impacts to the public lands of the SJWA, the MSHCP,
27 the SKRHCP, and the wildlife conservation mandates of the state of California.
28 The Final EIR used a different Project boundary line to analyze impacts to the
29 SJWA.

30 26. Petitioners have exhausted all administrative remedies by submitting written
31 comments to the City of Moreno Valley prior to the Project's approval to request

² The Department's name was changed to Fish and Wildlife on January 1, 2013.

1 compliance with CEQA and the completion of full and adequate environmental
2 review. All issues raised in this petition were raised before Respondent by
3 Petitioners, other members of the public, or public agencies prior to the approval
4 of the project.

5 27. Petitioners have complied with Public Resources Code section 21167.5 by prior
6 service of a notice upon the City of Moreno Valley indicating its intent to file this
7 petition. Proof of Service of this notification with the notification, is attached as
8 Exhibit A.

9 28. Petitioners have elected to prepare the record of proceedings in the above-
10 captioned proceedings or to pursue an alternative method of record preparation
11 pursuant to Pub. Rec. Code § 21167.6(b)(2). Notification of the Election to
12 Prepare the Administrative Record is attached as Exhibit B.

13 29. Petitioners have served a copy of this Petition on the Attorney General's office to
14 give notice of Petitioner's intent to bring this proceeding as a private attorney
15 general under Code of Civil Procedure section 102`1.5, which notice is attached as
16 Exhibit C.

17 30. Petitioner's have filed and served a request for Hearing and thus complied with
18 Pub. Res. Code § 21167.4. A copy of that notice is attached as Exhibit D.

19 31. This petition is timely filed in accordance with Public Resources Code section
20 21167 and CEQA Guidelines § 15112.

21 32. Respondents have abused their discretion and failed to act as required by law in
22 the following ways:

23 **FIRST CAUSE OF ACTION**

24 **VIOLATION OF CEQA (PUBLIC RESOURCES CODE § 21000, *et seq.*)**

25 **The City of Moreno Valley did not comply with CEQA**

26 33. Petitioners hereby incorporate by reference each and every allegation set forth
27 above.

28 34. CEQA requires a lead agency for a project to prepare an EIR that complies with
the requirements of the statute. The lead agency must also provide for public
review and comment on the project and associated environmental documentation.
An EIR must provide sufficient environmental analysis such that decision makers

1 can intelligently consider environmental consequences when acting on proposed
2 projects.

3 35. Respondents violated CEQA by certifying an EIR for the project that is inadequate
4 and fails to comply with CEQA. Respondents:

- 5 a. Failed to adequately disclose or analyze the project's impacts on the
6 environment, including but not limited to, the project's impacts on biological
7 resources, the San Jacinto Wildlife Area, the MSHCP and the SKRHCP.
8 b. Failed to provide a stable, consistent and adequate description of the project,
9 which prohibited an accurate depiction of the project's impacts on the
10 environment.
11 c. Failed to provide an adequate description of the existing environmental
12 settings of the project, vicinity, and regional context.
13 d. Failed to adopt a consistent and appropriate environmental "baseline" for
14 analysis of the project's environmental impacts that contributed to the EIR's
15 flawed analysis of environmental impacts.
16 e. Failed to adequately identify and analyze the project's biological resource
17 impacts—including direct, indirect and cumulative impacts on the SJWA, the
18 MSHCP, the SKRHCP and wildlife resources.
19 f. Failed to adequately identify, analyze and adopt all feasible mitigation
20 measures and/or alternatives that would minimize direct, indirect and
21 cumulative impacts on biological resources.
22 g. Improperly relied upon regional plans to avoid full disclosure and mitigation
23 of the project's impacts.
24 h. Improperly deterred impact analysis and mitigation measures in
25 contravention of CEQA's requirement that mitigation measures be clearly
26 defined and enforceable.
27 i. Failed to adopt feasible mitigation measures and alternatives to reduce or
28 avoid significant impacts in direct contravention of CEQA's substantive
mandate that all feasible mitigation measures be adopted to avoid or reduce a
project's significant and potentially significant impacts.
j. Failed to consider a reasonable range of alternatives by improperly dismissing
feasible alternatives, including those recommended by the public, trustee and

1 responsible agencies and relying upon an improperly narrow list of project
2 objectives to justify the elimination of feasible alternatives.

3 k. Failed to properly disclose, analyze or mitigate conflicts with existing local,
4 state and federal laws.

5 l. Failed to adequately respond to comments submitted by the public and
6 governmental agencies during review of the EIR.

7 m. Failed to recirculate the EIR, or any portion of the EIR, despite the availability
8 of significant new information within the meaning of Public Resources Code
9 section 21092.1 and CEQA Guidelines § 15088.5.

10 n. Failed to adopt an adequate Mitigation Monitoring or Reporting Program in
11 order to assure that the mitigation measures and program revisions identified
12 in the EIR are implemented.

13 o. Failed to adopt adequate findings that alternatives to the project and proposed
14 mitigation measures and alternatives that would have avoided or lessened the
15 significant impacts of the project were infeasible and failed to disclose the
16 readily available mitigation measures and alternatives that would meet the
17 basic project objectives.

18 36. As a result of the foregoing defects, Respondent prejudicially abused their
19 discretion by certifying an EIR that does not comply with CEQA and by approving
20 the project in reliance thereon. Accordingly, Respondent's certification of the EIR
21 and approval of the project must be set aside.
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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Petitioners pray for relief as follows:

- 3 1. For alternative and preemptory writs of mandate, commanding Respondent:
- 4 A. To vacate and set aside all approvals of the Project.
- 5 B. To suspend any and all activity pursuant to Respondent's approval of the
- 6 Project until Respondent has complied with all requirements of CEQA as are
- 7 directed by this Court pursuant to Public Resources § 21168.9
- 8 2. For a stay, temporary restraining order, preliminary injunction, and permanent
- 9 injunction prohibiting any actions by Respondent pursuant to Respondent's
- 10 approval of the Project until Respondent has fully complied with all requirements
- 11 of CEQA.
- 12 3. For a declaration that the Project Approval is inconsistent with CEQA.
- 13 4. For costs of suit.
- 14 5. For Attorney fees pursuant to the Code of Civil Procedure section 1021.5; and
- 15 6. For such other and further relief as the Court deems just and proper.

16 Dated: September 15, 2015

17 By Susan Nash

18 Susan Nash

19 Attorney for Petitioners and Plaintiffs

20 ALBERT THOMAS PAULEK

21 FRIENDS OF THE NORTHERN SAN JACINTO VALLEY

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VERIFICATION

I, Albert Thomas Paulek, declare as follows:

I am the Petitioner in this action.

I have read the following Petition for Writ of Mandate and Complaint for Injunctive Relief and know the contents thereof. All facts alleged in the above petition are true of my own knowledge, except as to matters stated on information and belief.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed on this 14th day of September, 2015 in Idyllwild, California.


Albert Thomas Paulek

EXHIBIT A

September 9, 2015

Via U. S. Mail

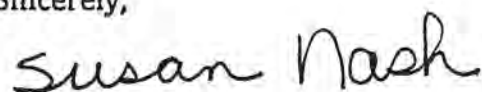
Moreno Valley City Council
City of Moreno Valley
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552

Re: Approval of the World Logistics Center Project and Certification of the Environmental Impact Report (SCH No. 2012021045).

This letter is to notify the City that Albert Thomas Paulek, and the Friends of the Northern San Jacinto Valley will file suit against the City of Moreno Valley for failure to observe the requirements of the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq. and the CEQA Guidelines, California Code of Regulations section 15000 et seq. in the Approval of the above referenced CEQA Project for the World Logistics Center.

This notice is given pursuant to Public Resources Code section 21167.5.

Sincerely,



Susan L. Nash
Attorney at Law
P. O. Box 4036
Idyllwild, California 92549
Voice: (909) 228-6710
Email: snash22@earthlink.net

DECLARATION OF SERVICE

I am employed in the County of Riverside, state of California. I am over the age of eighteen, and my business address is Post Office Box 4036, Idyllwild, California 92549. On this date, I served the following document(s):

Letter to: Moreno Valley City Council, City of Moreno Valley

Re: Notice of Intent to file Suit pursuant to Public Resources Code section 21167.5

On the party identified below in the following manner:

By First Class Mail. I am readily familiar with our office's practice for collection and processing of correspondence and other materials for mailing with the United States Postal Service. I placed a true and correct copy of the document listed above in a sealed envelope addressed as shown below and affixed first-class postage. The envelope was deposited with the U.S. Postal Service on this date, in the ordinary course of business.

Moreno Valley City Council
City of Moreno Valley
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552

I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

Executed on September 9, 2015 at Idyllwild, California.



Susan Nash

EXHIBIT B

Susan Nash (State Bar # 122533)
Law Office of Susan Nash
P.O. Box 4036
Idyllwild CA 92549
Telephone: (909) 228-6710
Fax: (951) 659-2718
E-mail: snash22@earthlink.net

Attorney for Petitioners/Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

**ALBERT THOMAS PAULEK;
FRIENDS OF THE NORTHERN SAN
JACINTO VALLEY,**

Petitioners/Plaintiffs,

vs.

**CITY OF MORENO VALLEY ; and
DOES 1 through 20, inclusive.**

Respondents,

**HIGHLAND FAIRVIEW, a privately held
real estate development company, and Does
21 through 50, inclusive**

Real Party in Interest

Case No.

**NOTICE OF ELECTION TO PREPARE
ADMINISTRATIVE RECORD**

California Environmental Quality Act
(CEQA) [Pub. Res. Code § 21167.6]

Petitioners A.T. Paulek and Friends of the Northern San Jacinto Valley elect to prepare the record of proceedings in the above-captioned proceeding, or alternatively, to pursue an alternative method of record preparation pursuant to Public Resources Code Section 21167.6(b)(2).

DATED: September 15, 2015

By: *Susan Nash*

Susan Nash
Attorney for Petitioners

DECLARATION OF SERVICE

Albert Thomas Paulek; Friends of the Northern San Jacinto Valley v. City of Moreno Valley & Highland Fairview

I am employed in the County of Riverside, state of California. I am over the age of eighteen and my business address is Post Office Box 4036, Idyllwild, CA 92549. On this date, I served the following document(s).

On September 15, 2015, I served a true and correct copy of the **NOTICE OF ELECTION TO PREPARE ADMINISTRATIVE RECORD** for the above captioned action by placing a true copy thereof in a sealed envelop, addressed as shown below:

BY MAIL: Such envelope(s) were sealed and placed for collection and mailing following ordinary business practices addressed to:

Moreno Valley City Council
City of Moreno Valley
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552

Highland Fairview
14225 Corporate Way
Moreno Valley, CA 92553

Executed on September 15, 2015 in Riverside, California.

I declare under penalty of perjury under the law of California that the foregoing is true and correct.

Susan Nash

Susan Nash

EXHIBIT C

September 15, 2015

Office of the Attorney General
Attn. Environmental/CEQA Filing
1300 "I" Street
P.O. Box 944255
Sacramento, CA 94244-2550

Re: Notice of Commencement of Legal Action Alleging Environmental Harm

The enclosed Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief, Albert Thomas Paulek and Friends of the Northern San Jacinto Valley v. City of Moreno Valley is submitted to your office pursuant to Code of Civil Procedure section 388 and Public Resources Code section 21167.7. This case is being pursued under the private attorney general provisions of the Code of Civil Procedure section 1021.5

The suit is being brought challenging the City of Moreno Valley Approval of the World Logistics Center Project under the California Environmental Quality Act (CEQA).

Petitioners allege environmental harm that could affect the public generally and the natural resources of the state.

Thank you for your attention to this matter.

Sincerely,

Susan Nash

Susan Nash (SBN 122533)
Attorney at Law
P.O. Box 4036
Idyllwild, CA 92549
Voice: (909) 228-6710
Email: snash22@earthlink.net

EXHIBIT D

Susan Nash (State Bar # 122533)
Law Office of Susan Nash
P.O. Box 4036
Idyllwild CA 92549
Telephone: (909) 228-6710
Fax: (951) 659-2718
E-mail: snash22@earthlink.net

Attorney for Petitioners/Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

**ALBERT THOMAS PAULEK;
FRIENDS OF THE NORTHERN SAN
JACINTO VALLEY,**

Petitioners/Plaintiffs,

vs.

**CITY OF MORENO VALLEY; and
DOES 1 through 20, inclusive.**

Respondents,

**HIGHLAND FAIRVIEW, a privately held
real estate development company; and Does
21 through 50, inclusive**

Real Party in Interest

Case No.

REQUEST FOR HEARING

Case Designation: **CEQA**

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that, pursuant to Public Resources Code section 21167.4, Petitioners A. T. PAULEK, FRIENDS OF THE NORTHERN SAN JACINTO VALLEY (hereafter collectively "Petitioners") hereby request a hearing on the ultimate merits of Petitioner's Petition for Writ of Mandate, which alleges violations of the California Environmental Quality Act, Public Resources Code sections 21000 *et seq.* This request is being filed with the Court and served on the parties.

Following the filing of this Request for Hearing, any party may apply to the Court to establish a briefing schedule and hearing date for the hearing. *Leavitt v. County of Madera* (2004) 123 Cal App. 1502, 1517, 1523; *Ass'n for Sensible Development at Northstar, Inc. v. Placer County* (2004) 122 Cal. App. 4th 1289, 1294-95. The hearing date, time, and place, and the briefing schedule for the hearing are to be established by the Court following such application by any party. *Id.*

DATED: September 15, 2015

Respectfully submitted,

By:

Susan Nash

Susan Nash

Attorney for Petitioners

A.T. Paulek

Friends of the Northern

DECLARATION OF SERVICE

Albert Thomas Paulek; Friends of the Northern San Jacinto Valley v. City of Moreno Valley & Highland Fairview

I am employed in the County of Riverside, state of California. I am over the age of eighteen and my business address is Post Office Box 4036, Idyllwild, CA 92549. On this date, I served the following document(s).

On September 15, 2015, I served a true and correct copy of the **REQUEST FOR HEARING** for the above captioned action by placing a true copy thereof in a sealed envelop, addressed as shown below:

BY MAIL: Such envelope(s) were sealed and placed for collection and mailing following ordinary business practices addressed to:

Moreno Valley City Council
City of Moreno Valley
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552

Highland Fairview
14225 Corporate Way
Moreno Valley, CA 92553

Executed on September 15, 2015 in Riverside, California.

I declare under penalty of perjury under the law of California that the foregoing is true and correct.

Susan Nash

Susan Nash

DECLARATION OF SERVICE

*Albert Thomas Paulek; Friends of the Northern San Jacinto Valley v.
City of Moreno Valley; Highland Fairview*

I am employed in the County of Riverside, state of California. I am over the age of eighteen and my business address is Post Office Box 4036, Idyllwild, CA 92549. On this date, I served the following document(s).

On September 15, 2015, I served a true and correct copy of the **PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** for the above captioned action by placing a true copy thereof in a sealed envelop, addressed as shown below:

BY MAIL: Such envelope(s) were sealed and placed for collection and mailing following ordinary business practices addressed to:


Moreno Valley City Council
City of Moreno Valley
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552

Highland Fairview
14225 Corporate Way
Moreno Valley, CA 92553

Office of the Attorney General
Attn. Environmental/CEQA Filing
1300 "I" Street
P.O. Box 944255
Sacramento, CA 94244-2550

Executed on September 15, 2015 in Riverside, California.

I declare under penalty of perjury under the law of California that the foregoing is true and correct.



Susan Nash

Susan Nash (State Bar # 122533)
Law Office of Susan Nash
P.O. Box 4036
Idyllwild CA 92549
Telephone: (909) 228-6710
Fax: (951) 659-2718
E-mail: snash22@earthlink.net

Attorney for Petitioners/Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

**ALBERT THOMAS PAULEK;
FRIENDS OF THE NORTHERN SAN
JACINTO VALLEY,**

Petitioners/Plaintiffs,

vs.

**CITY OF MORENO VALLEY; and
DOES 1 through 20, inclusive.**

Respondents,

**HIGHLAND FAIRVIEW, a privately held
real estate development company; and Does
21 through 50, inclusive**

Real Party in Interest

Case No. *RIC 1510967*

REQUEST FOR HEARING

Case Designation: **CEQA**

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

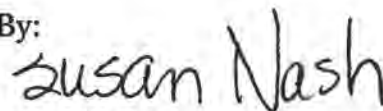
NOTICE IS HEREBY GIVEN that, pursuant to Public Resources Code section 21167.4, Petitioners A. T. PAULEK, FRIENDS OF THE NORTHERN SAN JACINTO VALLEY (hereafter collectively "Petitioners") hereby request a hearing on the ultimate merits of Petitioner's Petition for Writ of Mandate, which alleges violations of the California Environmental Quality Act, Public Resources Code sections 21000 *et seq.* This request is being filed with the Court and served on the parties.

Following the filing of this Request for Hearing, any party may apply to the Court to establish a briefing schedule and hearing date for the hearing. *Leavitt v. County of Madera* (2004) 123 Cal App. 1502, 1517, 1523; *Ass'n for Sensible Development at Northstar, Inc. v. Placer County* (2004) 122 Cal. App. 4th 1289, 1294-95. The hearing date, time, and place, and the briefing schedule for the hearing are to be established by the Court following such application by any party. *Id.*

DATED: September 15, 2015

Respectfully submitted,

By:



Susan Nash

Attorney for Petitioners

A.T. Paulek

Friends of the Northern

DECLARATION OF SERVICE

Albert Thomas Paulek; Friends of the Northern San Jacinto Valley v. City of Moreno Valley & Highland Fairview

I am employed in the County of Riverside, state of California. I am over the age of eighteen and my business address is Post Office Box 4036, Idyllwild, CA 92549. On this date, I served the following document(s).

On September 15, 2015, I served a true and correct copy of the **REQUEST FOR HEARING** for the above captioned action by placing a true copy thereof in a sealed envelop, addressed as shown below:

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Susan Nash

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

**ALBERT THOMAS PAULEK;
FRIENDS OF THE NORTHERN SAN
JACINTO VALLEY,**

Petitioners/Plaintiffs,

vs.

**CITY OF MORENO VALLEY ; and
DOES 1 through 20, inclusive.**

Respondents,

**HIGHLAND FAIRVIEW, a privately held
real estate development company, and Does
21 through 50, inclusive**

Real Party in Interest

Case No. *RIC 1510967*

**NOTICE OF ELECTION TO PREPARE
ADMINISTRATIVE RECORD**

California Environmental Quality Act
(CEQA) [Pub. Res. Code § 21167.6]

Petitioners A.T. Paulek and Friends of the Northern San Jacinto Valley elect to prepare the record of proceedings in the above-captioned proceeding, or alternatively, to pursue an alternative method of record preparation pursuant to Public Resources Code Section 21167.6(b)(2).

DATED: September 15, 2015

By: *Susan Nash*

Susan Nash
Attorney for Petitioners

DECLARATION OF SERVICE

Albert Thomas Paulek; Friends of the Northern San Jacinto Valley v. City of Moreno Valley & Highland Fairview

I am employed in the County of Riverside, state of California. I am over the age of eighteen and my business address is Post Office Box 4036, Idyllwild, CA 92549. On this date, I served the following document(s).

On September 15, 2015, I served a true and correct copy of the **NOTICE OF ELECTION TO PREPARE ADMINISTRATIVE RECORD** for the above captioned action by placing a true copy thereof in a sealed envelop, addressed as shown below:

BY MAIL: Such envelope(s) were sealed and placed for collection and mailing following ordinary business practices addressed to:

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Executed on September 15, 2015 in Riverside, California.

I declare under penalty of perjury under the law of California that the foregoing is true and correct.

Susan Nash

Susan Nash

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EUGENE S. WILSON, ESQ. (107104)
Law Office of Eugene Wilson
3502 Tanager Avenue
Davis, California 95616-7531
Phone: 530-756-6141
Facsimile: 530-756-5930

Attorney for California Clean Energy Committee

CITY CLERK
MORENO VALLEY
RECEIVED
15 SEP 21 AM 11:39

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 17 2015

C. Mundo

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF RIVERSIDE
RIVERSIDE HISTORIC COURTHOUSE

CALIFORNIA CLEAN ENERGY
COMMITTEE, a California nonprofit
corporation,

Petitioner,

v.

CITY OF MORENO VALLEY, a municipal
corporation; and DOES 1-50, inclusive,

Respondents

HIGHLAND FAIRVIEW, an entity of
unknown form; and DOES 51-100, inclusive,

Real Parties in Interest

CASE NUMBER **RIC 1511118**
PETITION FOR WRIT OF MANDATE
PURSUANT TO THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT

Petitioner California Clean Energy Committee, by and through its attorney, alleges as follows:

GENERAL ALLEGATIONS

1. Respondent City of Moreno Valley (City) is a general law city and a political subdivision of the State of California. The City is the primary agency responsible for the project

1 described herein and as such the lead agency responsible under the California Environmental Quality
2 Act (CEQA) for preparation of the environmental impact report and for the design of the
3 environmental mitigation for the project described herein.

4 2. Petitioner California Clean Energy Committee (Clean Energy) is a nonprofit
5 corporation incorporated under the laws of the State of California maintaining its principal place of
6 business in the City of Davis, California. Clean Energy advocates on behalf of the general public
7 throughout the State of California for energy conservation, the development of clean energy
8 resources, reduced greenhouse gas emissions, sustainable transportation, smart growth, farmland
9 preservation, and related issues. Clean Energy actively supports the application of CEQA to energy
10 conservation and related issues.

11 3. Over twenty individuals in Moreno Valley have joined Clean Energy's campaign to
12 request that the City provide robust energy conservation and environmental stewardship in the
13 World Logistics Center project.

14 4. Clean Energy brings this action as a representative of the general public in the region
15 and across California who will be affected by the project. The general public will be directly and
16 adversely impacted by the implementation of the project and by the failure of the City to adequately
17 evaluate the impacts of the project and by its failure to identify and adopt enforceable mitigation for
18 the project impacts as required pursuant to CEQA.

19 5. Without a representative organization such as Clean Energy, it would be impractical
20 and uneconomic for individual members of the public to enforce CEQA with respect to the project
21 discussed herein. Without a representative action such as this one, the violations of CEQA described
22 in this petition would remain immune from judicial review. Petitioner is informed and believes, and
23 based thereon alleges, that no governmental agency is prepared to evaluate the environmental issues
24 or to enforce the public rights that are at stake.

25 6. Venue for this action is proper in this court because the environmental impacts of the
26 actions alleged herein will cause direct and substantial impacts within the City of Moreno Valley and
27 because the principal office of the respondent agency is situated within the City of Moreno Valley.

28 7. Concurrently herewith petitioner is filing a declaration of prior service by mail upon

1 the City of written notice of intent to commence this action in compliance with the requirements of
2 Public Resources Code section 21167.5.

3 8. Petitioner is further filing and serving herewith notice of its election to prepare the
4 administrative record in this matter pursuant to Public Resources Code section 21167.6.

5 9. The true names and capacities of the respondents and real parties in interest sued
6 herein under California Code of Civil Procedure section 474 as Does 1 through 100, inclusive, are
7 presently unknown to petitioner. Does 1 through 100 include agents of the county, state, and federal
8 government who are responsible in some manner for the conduct described herein and real parties in
9 interest presently unknown to the petitioner who claim some legal or equitable interest in the project
10 who petitioner therefore sues by such fictitious names. Petitioner will amend this petition to include
11 these Doe respondents' true names and capacities when they are ascertained. Each of the fictitiously-
12 named respondents is responsible in some manner for, or affected by, the conduct alleged herein.

13 10. Clean Energy's action herein will result in the enforcement of important rights
14 affecting the public interest and confer substantial benefits on the general public. The necessity and
15 financial burden of private enforcement justify an award of attorney fees pursuant to Code of Civil
16 Procedure section 1021.5.

17 11. Despite the extensive comments received, the City has nevertheless prepared and
18 relied on an EIR that falls well below CEQA's minimum standards. If the City is allowed to proceed
19 with the project, irreparable harm will result to the environment and to the public. No adequate
20 remedy, other than that prayed for herein, exists by which the rights of the petitioner and the class it
21 represents may be protected.

22 12. Clean Energy has exhausted all administrative remedies by submitting written
23 comments on the project requesting compliance with CEQA and a full and adequate environmental
24 review. All issues raised in this petition were raised with the City by Clean Energy or by other
25 members of the public or public agencies prior to the certification of the EIR. The City has made its
26 final decision. This petition is timely filed in accordance with Public Resources Code section 21167
27 and CEQA Guidelines section 15112.

28

1
2 PROCEDURAL BACKGROUND

3 13. The project area encompasses approximately 3,818 acres which are largely within the
4 City of Moreno Valley, bounded by Redlands Boulevard to the west, State Route 60 on the north,
5 Gilman Springs Road on the east, and the San Jacinto Wildlife Area on the south. 2,610 acres of the
6 total project area have been designated for the World Logistics Specific Plan. The project would
7 entail building and operating 40,600,000 square feet of warehouse development within the specific
8 plan area. The remainder of the project area would largely constitute open space.

9 14. The project application includes general plan amendments, a specific plan to regulate
10 and direct future development within the specific plan area, a change of zoning to logistics and
11 warehouse uses within the specific plan area, pre-zoning of 84 acres of land for future annexation, a
12 tentative parcel map consisting of 26 separate parcels, and a development agreement with a duration
13 of up to 25 years.

14 15. On February 21, 2012, the City published a Notice of Preparation of an
15 environmental impact report for the project. The City conducted a scoping meeting on March 12,
16 2012. A draft programmatic environmental impact report was subsequently prepared and notice of
17 the availability of the draft EIR was distributed on February 5, 2013. The public review period for
18 the draft EIR extended to April 8, 2013. Numerous government agencies, organizations, and
19 individuals submitted comment letters on the draft EIR. On May 1, 2015, the City published the
20 final environmental impact report.

21 16. On June 11, 2015, June 25, 2015 and June 30, 2015, the Planning Commission of the
22 City of Moreno Valley held public meetings to consider the proposed project. On June 30, 2015, the
23 Planning Commission recommended that the City Council certify the Final Environmental Impact
24 Report (EIR) and approve of the Statement of Overriding Conditions and the Mitigation and
25 Monitoring Program.

26 17. On August 19, 2015, the City Council met and adopted Resolution No. 2015-56
27 which certified the final EIR for the project, adopted findings and a statement of overriding
28 considerations, and approved the mitigation and monitoring program. At that time the City Council

1 further adopted Resolution No. 2015-57 approving the general plan amendments; adopted Ordinance
2 No. 900 approving the zone change, the specific plan, and the pre-zoning; adopted Resolution No.
3 2015-58 approving tentative parcel map 36457; adopted Ordinance No. 901 approving the
4 development agreement; adopted Resolution No. 2015-59 requesting that the Riverside Local
5 Agency Formation Commission (LAFCO) initiate proceedings to expand the city boundary; and
6 adopted Resolution No. CSD 2015-29 requesting LAFCO to initiate proceedings to expand the
7 community services district boundary.

8
9 FAILURE TO ANALYZE INCREASED ENERGY USAGE

10 18. Initially, the City determined that due to the size of the proposed project, the energy
11 impacts were potentially significant and then attempted to evaluate those impacts in the EIR. Clean
12 Energy advised the City that the EIR should contain an evaluation of the amount of electrical energy
13 used on the project site at the present time, should compare that usage with the amount of electrical
14 energy that would be used at the time of project build out, and based on the increased usage
15 determine that there would be a significant impact to energy if the project were approved. Clean
16 Energy advised the City to evaluate the extent to which the construction and operation of the project
17 could be fueled by renewable resources.

18 19. The City chose to disregard those recommendations. The City estimated that annual
19 electrical usage from the operation of the project would be approximately 376 gigawatt hours. The
20 City did not determine or report the amount of electrical energy currently used on the project site. It
21 did not disclose or describe the energy usage baseline for the environmental analysis. It did not
22 report or consider the extent to which that demand would be served by fossil-fired or renewable
23 generation. The City did not determine, consider, or report the amount of energy that would be used
24 in the construction of the project or what portion of that energy would be derived from renewable
25 resources. The City failed to determine or consider whether the increase in electrical usage by the
26 project would constitute a substantial or potentially substantial adverse change in the physical
27 environment.

28 20. Rather, the EIR simply concluded that the project would not have significant energy

1 impacts because, like other projects in California, the project would comply with the building code
2 requirements in Title 24, Part 6, of the California Code of Regulations (Title 24) and further because
3 the project would comply with some unidentified "service requirements" of the utilities. In
4 particular, the City stated that "[b]ecause the proposed WLC project would be required to adhere to
5 standards contained in Title 24 in addition to requirements set forth by the respective utility
6 providers, development of the proposed WLC project would not result in the wasteful, inefficient or
7 unnecessary consumption of energy."

8 21. Stating that the project would comply with Title 24 did not constitute an adequate
9 assessment of energy impacts under CEQA because such an analysis does not constitute a evaluation
10 of the impact of the project on the physical environment. Energy impacts under CEQA Guidelines
11 are not simply the requirements of Title 24. Title 24 does not take into account whether an increase
12 of 376 gigawatt hours in electrical consumption constitutes a substantial adverse change in the
13 physical environment. Title 24 does not address whether buildings should be constructed at all, how
14 large buildings should be, where they should be located, whether they should incorporate renewable
15 energy resources, construction energy impacts, transportation energy impacts, diesel and gasoline
16 usage impacts, renewable energy impacts, energy storage, peak load impact, or other factors
17 encompassed by the CEQA Guidelines. Title 24 does not ensure that significant and unnecessary
18 increases in fossil-fuel usage will not take place. Moreover, Title 24 compliance does not preclude
19 the wasteful, inefficient or unnecessary consumption of energy.

20 22. Consequently, the City failed to meet the information disclosure requirements of
21 CEQA. It failed to identify the energy usage baseline. It failed to determine what increase in energy
22 usage would result from the construction and operation of the project. It failed to consider whether
23 the increased energy usage would constitute a substantial adverse change in the physical
24 environment. It failed to report whether the increased electric energy would be generated by fossil-
25 fired or renewable resources. It failed to identify or evaluate whether the project would adversely
26 impact energy due to its location, its configuration, its reliance on fossil fuels, its failure to
27 implement feasible renewable energy resources, its impact on peak load, its use of transportation and
28 material handling energy, its use of construction energy usage, or its failure to adopt energy storage.

1 The City failed to find out and disclose all that it reasonable could. The City's findings concerning
2 the energy impacts of the project are not supported.

3
4 FAILURE TO ANALYZE TRANSPORTATION ENERGY USAGE

5 23. The City projected that the proposed warehousing would generate considerable truck
6 traffic as well as vehicle trips due to employees commuting to the site. Material handling equipment
7 used on site to load and unload trucks will also require energy. Clean Energy advised the City that it
8 should address the transportation energy impacts of the project and the energy impacts from on-site
9 equipment operation, including both fuel type and end use. Clean Energy advised the City that it
10 should evaluate the potential for serving those energy loads from sustainable resources.

11 24. Nevertheless, the City's description of the project failed to discuss transportation or
12 equipment energy use, failed to discuss the kinds or quantities of fuels that would be used for those
13 purposes, and failed to identify the additional energy that would be consumed per vehicle trip by
14 mode. The assertion in the final EIR that the project's energy consumption would consist of 376
15 gigawatt hours of electricity and 14 million cubic feet of natural gas is materially misleading because
16 it ignores energy consumption by transportation and materially-handling equipment.

17 25. Consequently the EIR fails to comply with the information disclosure provisions of
18 CEQA which require that the City discuss the transportation and equipment energy usage associated
19 with the construction and operation of the project and determine whether that energy usage
20 constitutes a significant impact to energy. CEQA is violated when an EIR fails to discuss a
21 potentially significant environmental consideration. The City has failed to find out and report all
22 that it can concerning energy usage. The City's findings concerning energy impacts are not
23 supported.

24
25 FAILURE TO ANALYZE RENEWABLE ENERGY

26 26. The CEQA Guidelines define energy conservation as increasing reliance on
27 renewable energy resources, decreasing reliance on fossil fuels, and reducing energy consumption.
28 Alternative fuels and renewable energy systems must be considered in an EIR to the extent relevant

1 and applicable to the project.

2 27. Clean Energy advised the City to evaluate strategies for reducing reliance on fossil
3 fuels, for reducing reliance on remote generation facilities, and for increasing reliance on renewable
4 resources. Clean Energy informed the City of a variety of renewable energy resources potentially
5 available to the project including solar radiation, wind, geothermal, biofuels, and biomass. Clean
6 Energy informed the City that the warehouse roof space was capable of supporting many megawatts
7 of solar generation that could be managed under contract by the City of Moreno Valley Electric
8 Utility. Clean Energy advised the City that it should evaluate the options for putting the entire
9 project on 100 percent renewable electrical energy or on some lesser percentage of renewable
10 electricity as may be feasible. Clean Energy further informed the City that to effectively increase
11 renewable energy usage, it would be necessary to consider renewable generation as an element of the
12 original project design.

13 28. The City failed to consider the impact on renewable energy and chose instead to rely
14 on Title 24 compliance. The City responded that an analysis of renewable energy content was
15 “unnecessary to achieve the goal sought by the commenter, which is fueling the construction and
16 operation of the project from renewable electric generation of reduced emissions fuels” in view of
17 the mitigation measures adopted. The City pointed out that mitigation measure 4.16.4.6.1C would
18 require solar panels to serve “ancillary office uses,” that the project would comply with the City’s
19 requirement for 10 percent over Title 24, and that a basic LEED certification would be sought. The
20 City asserted that these measures would exceed the goals established by AB 32 for reducing GHG
21 emissions.

22 29. The City's haphazard use of AB 32 as a measure of renewable energy impacts is
23 unsupported. AB 32 does not constitute a proxy for the effective implementation of renewable
24 energy. AB 32 does not provide standards for assessing renewable energy impacts. A bare
25 conclusion regarding an environmental impact without an explanation of the analytic and factual
26 basis is not sufficient. An EIR must be prepared with a sufficient degree of analysis to provide
27 decisionmakers with the information required to make an intelligent decision. EIR requirements are
28 not satisfied by saying an impact will be something less than some unknown amount. The City's

1 findings regarding energy are unsupported.

2 30. The City further asserted that the benefits of providing renewable energy for this
3 project had been evaluated in Appendix N-2 of the final EIR. Yet the EIR does not reference or
4 discuss the information contained in Appendix N-2. Information buried in an appendix cannot
5 substitute for reasoned analysis in the EIR.

6 31. Moreover, the information in Appendix N-2 contradicts the City's conclusions with
7 respect to renewable energy impacts. Appendix N-2 demonstrates a substantial adverse impact on
8 renewable energy. It concludes that solar panels "could and should be implemented" to reduce
9 building electric demand to zero during times of peak solar production. Appendix N-2 concluded
10 that the project should implement sufficient photovoltaic solar arrays to meet the buildings' electrical
11 demand during times of peak solar production so that a "building's user will not need to utilize utility
12 company provided power." Appendix N-2 states that the project should provide for "coordinating
13 the design of the solar arrays with the actual buildings [sic] electrical demands."

14 32. To the contrary, the EIR states that the project will only implement solar arrays for
15 the "ancillary office uses." Providing only sufficient solar generation to serve "ancillary office
16 uses," rather than following the guidance of Appendix N-2, demonstrates a significant and adverse
17 impact to renewable generation. Appendix N-2 demonstrates that the project will fail to adopt
18 feasible on-site renewable generation and that the project will entail a substantial adverse impact to
19 energy conservation. The City's conclusion is contradicted by its own report and unsupported.

20 33. Clean Energy engaged a highly-regarded energy consulting firm, HOMER Energy,
21 to undertake a preliminary design and analysis of the electrical energy system for the project. That
22 study further demonstrates the adverse impact of the project's energy design. The HOMER analysis
23 considered various combinations of rooftop solar photovoltaics, lithium-ion batteries, and on-site gas
24 turbine generation. Three scenarios were modeled to identify low-cost, high-renewable designs that
25 could be implemented by the City of Moreno Valley Electric Utility –

- 26 • Traditional Grid Service—a traditional utility grid fed entirely by off-site generation
- 27 procured by the Moreno Valley Utility,
- 28 • Isolated Grid Service—an isolated electric service system located at the project site

- 1 and operated by the Moreno Valley Utility independently of its existing electric grid,
- 2 • Hybrid Grid Service—a hybrid between traditional grid service and an isolated grid
 - 3 service, where the Moreno Valley Utility would serve the project with a combination
 - 4 of off-site generation and on-site photovoltaic generation, battery storage, and gas-
 - 5 turbine generation.

6 34. HOMER concluded that implementing either the Isolated Grid Service option or the

7 Hybrid Grid Service option would reduce electric energy costs and also significantly increase the

8 renewable content of the electric power supply for the project. In the case of the hybrid grid design,

9 the analysis concluded that a 71 percent renewable content could be achieved while energy costs

10 would be less than with a traditional grid design. The hybrid design also provided better service than

11 the other scenarios by increasing electric power system reliability, a valuable system attribute.

	Levelized Cost of Energy per kWh	Renewable Content	Exposure to Natural Gas Volatility	Resiliency
Traditional Grid	\$0.179	33%	Medium	Good
Isolated Grid	\$0.151	58%	High	Fair
Hybrid Grid	\$0.164	71%	Medium	Excellent

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19 35. In reaching this conclusion, HOMER adopted a number of conservative assumptions

20 that disfavored renewable energy including (i) no value was attached to the ancillary services that

21 localized generation could likely sell to the larger grid, (ii) no value was attached to increased grid

22 resiliency and the avoidance of expensive back-up generation that would be achieved, (iii) no value

23 was taken for the sale of solar energy that was not used on-site that could be sold to other customers

24 in the local service territory or beyond, and (iv) no credit was taken for capital cost savings achieved

25 by avoiding the development of additional off-site generation.

26 36. Both the City's analysis in Appendix N-2 and the HOMER analysis constitute

27 substantial evidence of a significant adverse impact to renewable energy. Yet, no analysis of the

28 impact on renewable energy was considered in the EIR. Decisionmakers and the public were

1 erroneously informed that there would be no significant adverse impacts to energy. The EIR failed
2 to comply with the information disclosure requirements of CEQA. The City failed to exercise its
3 best efforts to find out and disclose all that it could about energy impacts. The City's findings with
4 respect to the energy impacts of the project are unsupported.

5 37. Further the City failed to identify or address the impact of a project design that
6 requires significant capital investment in long-lived traditional utility infrastructure, rather than
7 renewable energy infrastructure. The City failed to identify or discuss the economic and logistic
8 barriers that would be created to the future development of on-site renewables in the future. The
9 City failed to address the irreversible commitment of resources by the project in a manner that would
10 preempt future energy conservation.

11 END-USE OF ENERGY

12 38. Clean Energy advised the City that its analysis of the energy load should be based
13 upon a typical high-cube warehouse and that the EIR should address lighting, space conditioning,
14 battery recharging, equipment, transportation, water heating, and other categories of foreseeable
15 energy usage. Clean Energy provided the City with detailed information on typical warehouse
16 energy usage along with sources of data from which warehouse electric load could be derived.
17 Nevertheless, the City failed to provide information on how electrical, petroleum or natural gas
18 energy would be used. No data was provided on the percentage of energy that would potentially be
19 used for lighting, space heating and cooling, equipment operation, material handling, transportation,
20 etc. The City failed to discuss energy use patterns for similar projects in the locality or in the region.

21 39. The CEQA Guidelines provide that the project description should address the energy
22 consuming equipment and processes that will create the projected level of energy usage during
23 project operation. The Guidelines provide that the EIR should address energy requirements by end
24 use. The City failed to comply with the information disclosure requirements of CEQA by failing to
25 address the energy consuming equipment and processes which would potentially account for the
26 projected 376 gigawatt hours of electrical usage per year, the 14,616,000 cubic feet of natural gas
27 usage per year, and for the undetermined diesel fuel usage.
28

1
2 PEAK LOAD AND ENERGY STORAGE

3 40. The City stated that the project's peak electric demand would be 68 megawatts.
4 Appendix N-2 of the EIR contained a graph showing that peak electric demand as approximately
5 twice base period electrical demand. Appendix N-2 concluded that "twelve new 12kV distribution
6 circuits would be needed to meet the peak electrical demand." It stated that peak electrical demand
7 would not be coincident with peak PV output and therefore concluded that the project would not be
8 able to utilize the full solar potential of the warehouse rooftops.

9 41. Clean Energy advised the City that the energy analysis should evaluate strategies for
10 reducing peak loads. Clean Energy informed the City of the higher rates charged for electricity
11 during peak hours. Clean Energy advised the City to use storage to avoid demand at times of peak
12 load. Clean Energy advised the City that district chilled water systems reduce peak demand and
13 reduce the costs of serving peak demand. Clean Energy pointed out that energy storage should be
14 evaluated and suggested various forms of potential energy storage.

15 42. Nevertheless, the City's analysis of energy impacts did not consider whether the
16 project would have a significant adverse effect on peak energy demand. Instead the City relied
17 exclusively on a comparison to Title 24. Title 24 does not address energy storage or peak energy
18 demand.

19 43. In Appendix N-2 the City assumed that all electricity had to be sent to an end-user for
20 immediate use. It ignored the potential to store excess electrical generation for later use and reached
21 the unsupported conclusion that "full utilization of the PV potential [was] economically infeasible"
22 due to the fact that peak demand would not coincide and that the proposed electrical infrastructure
23 allegedly could not deliver excess generation to other customers.

24 44. The City's conclusions in Appendix N-2 were unsupported. The HOMER energy
25 analysis pointed out that "[e]lectrical storage is a high value option for electricity supply. Recent
26 energy storage price declines and performance improvements are increasingly making electro-
27 chemical battery storage a viable option" HOMER modeled lithium-ion batteries at \$700 per
28 kWh of storage capacity and assumed a 77 percent round-trip efficiency. HOMER determined that

1 using large numbers of batteries was cost-effective and that the project could achieve 71 percent
2 renewable content using a combination of batteries and rooftop solar.

3 45. CEQA requires that an energy analysis address impacts on peak period demand for
4 electricity. The project will have a significant impact on peak energy which should have been
5 evaluated as a significant impact and mitigated. The City's conclusion that there would be no
6 significant impact to energy is not supported. The City's failure to consider energy storage
7 constitutes a failure to find out and report on critical aspects of the project's energy impacts. The
8 findings are unsupported. The analysis of energy is insufficient to provide decisionmakers with the
9 information needed to make an intelligent decision. The City has not used its best efforts to find out
10 and disclose all that it reasonably can.

11 12 GROUND SOURCE HEAT PUMPS

13 46. Clean Energy recommended to the City that ground source heat pumps be evaluated
14 to increase project energy efficiency. The City responded that using ground source heat pumps
15 would result in maintenance issues. There is no evidence to support that assertion. Plastic piping is
16 routinely installed under buildings and parking lots for many purposes including plastic electric
17 conduits, plastic gas piping, plastic water pipe, and plastic sewer pipe. Like other plastic pipes,
18 geothermal loops last indefinitely and do not require maintenance. Installation under a parking lot
19 actually reduces the danger that the pipes will be damaged by excavation. Further installation under
20 parking lots is only one option. Geothermal loops are often installed vertically which does not
21 involve putting them horizontally under a parking lot.

22 23 DISTRICT ENERGY

24 47. Clean Energy informed the City that district heating and chilled water should be
25 evaluated for use project-wide in lieu of packaged HVAC units. Clean Energy pointed out that
26 chilled water and hot water could be provided by one or more solar thermal installations. Similarly,
27 the City concluded in Appendix N-2 that "[u]se of remainder available rooftop space for other uses
28 such as . . . solar assisted space heating/cooling could also be environmentally beneficial and might

1 even further reduce project peak electric demands.”

2 48. Nevertheless, the City failed to provide any explanation or analysis of solar assisted
3 space heating/cooling or district energy. The City relied on the erroneous assumption that district
4 energy would be unlawful in California. However, Clean Energy informed the City that the City of
5 Moreno Valley Utility would be an appropriate entity to implement a shared energy system. A
6 municipal utility has the lawful authority to do so. Numerous district energy systems already exist in
7 California and they are not unlawful.

8 9 CLIMATE DISRUPTION

10 49. In the analysis of climate impacts in the final EIR, the City excluded emissions from
11 the transportation sector and emissions from the electricity sector. Failure to include such a
12 significant component of the GHG emissions in the analysis was unlawful under CEQA.

13 50. The City referred to the California Cap-and-Trade Program adopted pursuant to the
14 California Global Warming Solutions Act of 2006 (Health & Safety Code, §§ 38500 et seq. (AB
15 32)). The existence of a statewide program designed to reduce emissions from those economic
16 sectors does not justify excluding emissions from those sectors from the analysis of project impacts
17 under CEQA. The analysis of impacts under CEQA must address the “project,” which under CEQA
18 means “the whole of an action.” (CEQA Guidelines, §15378.)

19 51. The cap is set for 2020 and it does not ensure that the contribution to global climate
20 change by covered entities will be less than significant. Cap-and-trade is only designed to return
21 carbon emissions to what the state experienced in 1990. There is no plan, no program, and no
22 assurance that cap-and-trade can reduce carbon emissions below 1990 levels. Consequently, cap-
23 and-trade would not reduce carbon emissions to less than significant.

24 52. Further the Cap-and-Trade Program does not regulate the proposed project because
25 the World Logistic Center is not a covered entity. No relevant public agency has adopted
26 regulations or requirements to reduce or mitigate the GHG emissions of warehouse projects. The
27 City’s EIR refers to examples that involve oil refineries that are covered entities under the Cap-and-
28 Trade Program. The City’s analysis and findings concerning the GHG impacts of the project are

1 misleading and unsupported.

2 53. Further, the City relies on, and misapplies, a threshold proposed to the Southern
3 California Air Quality Management District (SCAQMD) in 2008. The proposed threshold “applies
4 only to industrial (stationary source) projects.” The WLC is overwhelmingly a mobile source
5 project. Further, the supporting analysis for the proposed threshold does not apply to mobile source
6 projects. The adoption of that standard for this project is not supported by substantial evidence.

7 54. The City would eliminate the analysis and mitigation of GHG impacts from
8 transportation sector, but even in sectors covered by cap-and-trade, the Legislature and the
9 California Air Resources Board have made it clear that the cap-and-trade program would not
10 eliminate other mechanisms for reducing climate impacts. The Legislature directed the Natural
11 Resources Agency to maintain CEQA Guidelines for the mitigation of greenhouse gas emissions
12 under CEQA “including, but not limited to, effects associated with transportation or energy
13 consumption.” (Pub. Resources Code, § 21083.05.) In discussing cap-and-trade, the 2008 Climate
14 Change Scoping Plan stated that covered sectors would “also be governed by other measures,
15 including performance standards, efficiency programs, and direct regulations.” In adopting cap-and-
16 trade, CARB noted that cap-and-trade is part of a mix of complementary strategies. (Staff Report, p.
17 4.)

18 19 TRANSPORTATION IMPACTS

20 55. The final EIR concludes that the project will have significant and unmitigated
21 transportation impacts to SR-60, SR-91, and I-215 as well as related air quality impacts. Petitioner
22 recommended that the city implement a transit funding charge on the project to fund mass transit
23 operation expenses, van pools, real-time ridesharing, alternative mode marketing, transit pass
24 programs, guaranteed ride home, truck routing and scheduling information, improved intermodal
25 connections, and management time to implement such a program as mitigation for those impacts.

26 56. Petitioner recommended establishment of an on-going transportation management
27 district to design and implement a commuter benefits program to serve the project’s substantial new
28 transportation demand. A commuter benefits program provides alternatives and incentives that

1 encourage commuting by more sustainable modes such as transit, rail, biking, van pools, and car-
2 pooling.

3 57. Petitioner informed the City that commuter benefits programs are based on a traffic
4 mitigation plan that includes public outreach to commuters through various media including
5 workplace promotion, social media, on-line ride matching, signage, on-site transit pass sales, on-site
6 transit information, discounted transit passes, and coordination with transit agencies. Such a
7 program could be operated under the joint supervision of the City of Moreno Valley and the
8 Riverside County Transportation Agency.

9 58. Petitioner recommended that employers located at the project site be required to
10 mitigate transportation impacts by actively participating in and contributing to the commuter benefits
11 program. Securing the participation of all employers on the project site would avoid the expense and
12 administrative burdens of setting up individual programs and provide a more effective and
13 responsive program under the supervision of specialized staff.

14 59. Petitioner further recommended that air quality and transportation impacts be
15 mitigated by adopting a transit-oriented development (TOD) design. TOD integrates transit service
16 into the layout of the project so that transit services are convenient and obvious at employment sites.
17 Designing the project around an effective transit plan encourages transit by making it simple,
18 convenient, clean, and economic for employees to commute to work by sustainable modes thus
19 mitigating transportation and air quality impacts.

20 60. The City failed and refused to implement a transit funding charge, failed and refused
21 to use on-going financial incentives to attract commuters to transit or alternative modes, and failed to
22 require development of a transportation management plan for the project or to provide funding for
23 management of such a transportation management program. These steps are essential to mitigating
24 the adverse impacts to air quality and transportation. The City has failed to discuss feasible
25 mitigation for transportation and air quality impacts. It has adopted mitigation that will not reduce
26 transportation and air quality impacts to less than significant. The City's findings are not supported
27 by substantial evidence.

28 61. Rather than implementing transportation demand management, the City has chosen to

1 rely on numerous costly roadway expansions and freeway expansions to address transportation
2 demand. It is widely recognized that roadway expansions stimulate additional traffic. The
3 additional roadway capacity the City is requiring as part this project will encourage people living or
4 working in the area to commute greater distances using the expanded roadways capacity. The EIR
5 fails to evaluate the impacts resulting from the proposed transportation mitigation.

6 62. The record shows that freight vehicle miles travelled (VMT) will increase
7 significantly for trucking. The U.S. Energy Information Administration projects truck VMT will
8 increase an average of 1.9 percent annually from 2013 to 2040, going from 256 billion to 411 billion
9 miles annually. This is a significant cumulative impact. The City projects diesel VMT from the
10 project to be 420,400 miles per day. Consequently, the project will make a substantial contribution
11 to a significant cumulative impact. Clean Energy advised the City to analyze the VMT impacts of
12 the project and the City failed to do so and thus failed to comply with CEQA.

13 14 ALTERNATIVE FUELING

15 63. Clean Energy pointed out that air quality impacts could be mitigated by requiring
16 trucks and material handling equipment on site such as forklifts to be powered using renewable
17 energy. Forklifts and similar equipment can be operated with hydrogen or electricity as opposed to
18 natural gas thereby reducing local emissions to zero. It was pointed out that solar photovoltaic on
19 warehouse roofs can charge vehicle batteries or operate hydrogen electrolysis to power zero-
20 emissions fleet vehicles.

21 64. Clean Energy insisted that the EIR evaluate mitigation that requires companies to
22 operate with sustainably-fueled, zero-emissions vehicles and equipment. Battery powered, zero-
23 emission delivery vans are commercially available. They operate more economically due to lower
24 maintenance and reduced fuel costs. Such equipment could be phased in by on-site companies that
25 operate their own fleets. Clean Energy also recommended that the City explore offsetting emissions
26 from the project by providing Riverside Transit Authority with funding to convert a number of buses
27 to hydrogen-powered and to provide H2 fueling services to buses at the alternative fueling station on
28 site.

1 65. City responded that the site could not be limited exclusively to trucks operating on
2 renewable fuels and that the trucks accessing the site would not be under the control of the developer
3 or tenants and thus could not be controlled. Such a response does not constitute a good-faith
4 reasoned response to the comment. Petitioner did not suggest that the site be limited exclusively to
5 trucks operating on renewable fuels. Further, the City has demonstrated that it does have sufficient
6 control by concluding that it is feasible to require tenants to ensure that vehicles are maintained to
7 manufacturer standards, feasible to require that yard trucks meet Tier 4 standards, and feasible to
8 ensure that diesel trucks meet 2010 emission standards. (MM 4.3.6.3B.) If such mitigation can be
9 enforced, similar mitigation could be enforced providing that vehicles operated at the project site be
10 transitioned to cleaner fuels. Compliance could be required through lease provisions. Alternatively,
11 economic incentives could be offered to project tenants who demonstrate that a portion of their fleet
12 or material handling equipment has been reduced to zero-emission.

13 66. The City also concluded that alternatively-fueled trucks do not have “enough market
14 penetration.” The evidence reflects that alternatively-fueled vehicles and equipment are available
15 and that they are cost effective in appropriate applications. Project tenants who operate forklifts or
16 who operate their own truck fleets, such as package delivery companies, can feasibly operate an
17 increasing portion of their fleets using zero-emission equipment.

18 67. The City’s blanket refusal to require alternatively-fueled vehicles is unsupported.
19 The EIR has failed to discuss feasible mitigation. The City has failed to use best efforts to find out
20 all that it can concerning the transition to low-emissions and zero-emission fuels. The City has
21 failed to adopt feasible mitigation for the significant air quality impacts of the project. The City’s
22 findings are unsupported.

23 68. Under direction from the California Legislature, hydrogen fueling infrastructure is
24 being rapidly deployed in California at this time. Petitioner urged the City to incorporate hydrogen
25 fueling and biofuels into the alternative fueling station. The City responded by pointing to
26 mitigation measure MM 4.3.6.3C, which provides that in the future, the project will develop a
27 fueling station “offering alternative fuels (natural gas, electricity, etc.) for purchase by the motoring
28 public.” The City did not discuss or require the station to provide hydrogen or biofuels under any

1 circumstances. The failed to recognize that fuel cell automobiles are currently available and on the
2 market in Southern California and that fuel cell trucking will be necessary to meet California's
3 emission reduction plans. The City should require the project to ensure that hydrogen and biofuel
4 refueling facilities will be made available at such time as those facilities would be an effective tool
5 for promoting transition to those fuels either by automobiles or by trucks. The City has failed to find
6 out and disclose all that it reasonably can concerning alternative fueling and has failed to provide for
7 feasible mitigation. The City's findings are unsupported.

8 9 PARKING

10 69. Clean Energy pointed out that all employers owning or leasing buildings at the
11 project site should be required to offer parking cash-out to employees to mitigate air quality and
12 transportation impacts. Parking cash-out means that employers are required to offer employees the
13 option of receiving a cash payment in lieu of receiving an employer-paid, vehicle parking space.

14 70. It costs thousands of dollars to build parking stalls for employees and parking takes
15 up valuable real estate. By using parking cash-out, employers can reduce the expenses they incur to
16 provide employee parking and use the savings to fund a financial incentive for employees to
17 commute via more sustainable modes. Employers save money by reducing the number of parking
18 spaces they are required to buy or lease for employees while they mitigate the air quality and
19 transportation impacts of the project.

20 71. The City responded that SCAQMD Rule 2202 contains a provision for parking cash-
21 out as one method to reduce single-occupant vehicle demand. That does not constitute enforceable
22 mitigation because tenants would not be required to implement cash-out parking under Rule 2202.
23 The City has failed to address feasible mitigation in its EIR. It has failed to adopt feasible mitigation
24 for a significant and unmitigated impacts. The City's findings are not supported by substantial
25 evidence.

26 27 SMART WAY

28 72. Clean Energy recommended to the City that companies operating at the WLC site be

1 required to participate in the U.S. EPA's Smart Way Program where applicable. Smart Way allows
2 shippers to track supply-chain emissions using data supplied to the SmartWay system by trucking
3 and rail companies. It allows shippers to model strategies to reduce emissions resulting from their
4 shipments. The EPA is continually upgrading the SmartWay tool. SmartWay is being integrated
5 into logistics programs. SmartWay shippers can pick carriers to meet performance targets for
6 emission reductions. Smart Way allows shippers to drive efficiency in the supply chain and
7 encourages freight carriers to adopt emission reductions. Participating companies benchmark their
8 current freight operations, identify technologies and strategies to reduce their carbon emissions, track
9 emissions reductions, and project future improvements. SmartWay participants demonstrate to
10 customers, clients, and investors that they are taking responsibility for emissions associated with
11 goods movement, are committed to corporate social responsibility and sustainable business
12 practices, and are reducing their emissions.

13 73. The City did not require any portion of the project to participate in SmartWay. The
14 City responded that trucks with access to the project site would be 2010 model year or newer and
15 would have some features SmartWay carriers may have on their trucks and further that mitigation
16 measure 4.3.6.3B would encourage tenants to become SmartWay participants. Mitigation Measure
17 4.3.6.3B provides that tenants shall be encouraged to become a SmartWay partner and to utilize
18 SmartWay 1.0 or greater carriers. The City insisted that it could not require tenants to become
19 SmartWay partners and that not all tenants would benefit from the program.

20 74. The mitigation adopted by the City is not enforceable. Providing "encouragement" to
21 tenants to become SmartWay shippers is meaningless. It does not meet the City's responsibility to
22 ensure that feasible mitigation is adopted and made enforceable. The City's findings are not
23 supported by substantial evidence. The City has failed to identify and adopt feasible mitigation for
24 significant project impacts to air quality and transportation.

25 75. Further, the City has failed to identify or disclose information that would demonstrate
26 any circumstances where it would not be appropriate for a qualified business to participate in the
27 SmartWay program. If such circumstances did exist, the City could adopt a structured compliance
28 approach that would ensure that tenants would be able to opt out of SmartWay as appropriate. This

1 could be accomplished by specifying the types of tenants that would not be required to participate or
2 by enforcing participation in SmartWay through a lease-based financial incentive.

3
4 FIRST CAUSE OF ACTION

5 (Failure to Comply with CEQA)

6 76. Petitioners incorporate by reference each and every allegation set forth above.

7 77. CEQA requires that lead agencies prepare an EIR that complies with the requirements
8 of the statute. The lead agency must also provide for public review and comment on the project and
9 associated environmental documentation. An EIR must provide sufficient environmental analysis
10 such that decision-makers can intelligently consider environmental consequences when acting on the
11 proposed project.

12 78. Respondent violated CEQA by certifying an EIR for the project that is inadequate and
13 fails to comply with CEQA and approving the project on that basis. Among other things,
14 respondent:

- 15 a. Failed to adequately disclose or analyze the project's significant environmental
16 impacts including but not limited to the project's impacts on transportation, climate
17 change, and energy;
- 18 b. Failed to provide a consistent and appropriate environmental baseline for analysis of
19 the project's environmental impacts;
- 20 c. Failed to adequately analyze the significant cumulative impacts of the project;
- 21 d. Improperly deferred impact analysis and mitigation measures;
- 22 e. Failed to discuss potentially feasible mitigation measures; and
- 23 f. Failed to adopt and make enforceable feasible mitigation for project impacts.

24 79. As a result of the foregoing defects, respondent prejudicially abused its discretion by
25 certifying an EIR that does not comply with CEQA and by approving the project in reliance thereon.
26 Accordingly, respondent's certification of the EIR and approval of the project must be set aside.

1 SECOND CAUSE OF ACTION

2 (Inadequate Findings)

3 80. Petitioner hereby incorporates by reference each and every allegation set forth above.

4 81. CEQA requires that a lead agency's findings for the approval of a project be
5 supported by substantial evidence in the administrative record. CEQA further requires that a lead
6 agency provide an explanation of how evidence in the record supports the conclusions the agency
7 has reached.

8 82. Respondent violated CEQA by adopting findings that are inadequate as a matter of
9 law in that they are not supported by substantial evidence in the record, including, but not limited to
10 the following:

- 11 a. The determination that certain impacts would be less than significant and/or that
12 adopted mitigation measures would avoid or lessen the project's significant effects on
13 the environment;
- 14 b. The determination that certain mitigation was infeasible;
- 15 c. The determination that overriding economic, legal, social, technological, or other
16 benefits of the project outweighed its significant impacts on the environment.

17 83. As a result of the forgoing defects, respondent prejudicially abused its discretion by
18 adopting findings that do not comply with the requirements of CEQA and approving the project in
19 reliance thereon. Accordingly, the agency's certification of the EIR and approval of the project must
20 be set aside.

21
22 THIRD CAUSE OF ACTION

23 (Failure to Recirculate the EIR)

24 84. Petitioner hereby incorporates by reference each and every allegation set forth above.

25 85. CEQA requires that if significant new information is added to an EIR after a draft
26 EIR is prepared, but before certification of the final EIR, the EIR must be recirculated for public
27 review and comment.

28 86. Comments submitted to respondent after the draft EIR was circulated provided

1 significant new information within the meaning of Public Resources Code section 21092.1 and
2 CEQA Guidelines section 15088.5 including, but not limited to, information about greenhouse gas
3 emissions, energy conservation, and feasible mitigation for project impacts.

4 87. Despite the availability of this significant new information, respondent failed to
5 recirculate the EIR, or any portion of the EIR. As a result of respondent's failure to recirculate the
6 EIR, the public and other public agencies were deprived of any meaningful opportunity to review
7 and comment on the project, its substantial adverse environmental consequences, and the new
8 information regarding other unanalyzed environmental effects of the project.

9 88. Respondent's failure to recirculate the EIR is not supported by substantial evidence
10 and represents a failure to proceed in the manner required by law.

11 WHEREFORE, petitioner respectfully requests the following relief:

12 1. A peremptory writ of mandate commanding that:

- 13 a. Respondent vacate and set aside its certification of the EIR, approval of the
14 project and the related approval of the Mitigation Monitoring and Reporting Plan,
15 Statement of Overriding Considerations and findings;
- 16 b. Respondent withdraw the notice of determination;
- 17 c. Respondent prepare and circulate a revised EIR for public review and comment
18 that is in compliance with the requirements of CEQA; and
- 19 d. Respondent suspend all activity pursuant to the certification of the EIR and the
20 related approvals that could result in any change or alteration to the physical
21 environment until it has taken all actions necessary to comply with CEQA.

22 2. Preliminary and permanent injunctions restraining respondent, its agents, employees,
23 contractors, consultants and all persons acting in concert with them, from undertaking any
24 construction or development, issuing any approvals or permits, or taking any other action to
25 implement in any way the approval of the project without full compliance with California law;

26 3. A declaration of the rights and duties of the parties hereto, including but not limited to
27 a declaratory judgment that prior to undertaking any action to carry out any aspect of the project,
28 respondent must prepare, circulate, and adopt a revised EIR in accordance with the requirements of

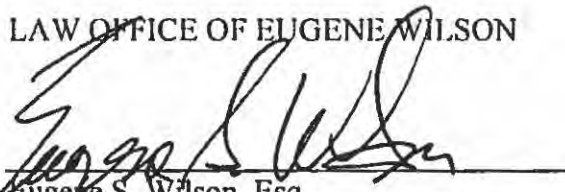
1 CEQA;

2 4. Petitioner's costs of suit and reasonable attorney fees; and

3 5. Such other relief as the court deems just and proper.

4 Dated: September 13, 2015

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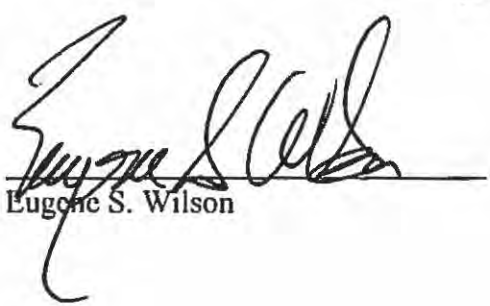
LAW OFFICE OF EUGENE WILSON

Eugene S. Wilson, Esq.
Attorney for the California Clean Energy
Committee

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VERIFICATION

I am an officer of petitioner, California Clean Energy Committee, and I am authorized to execute this verification on behalf of petitioner. I have read the foregoing petition and am familiar with its contents. The facts recited in the petition are true of my personal knowledge except as to matters stated on information and belief and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was signed on September 13, 2015, at Davis, California.



Eugene S. Wilson

COPY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

- BANNING 311 E. Ramsey St., Banning, CA 92220
- BLYTHE 265 N. Broadway, Blythe, CA 92225
- HEMET 880 N. State St., Hemet, CA 92543
- MORENO VALLEY 13800 Heacock St., Ste. D201, Moreno Valley, CA 92553

- MURRIETA 30755-D Auld Rd., Suite 1226, Murrieta, CA 92563
- PALM SPRINGS 3255 E. Tahquitz Canyon Way, Palm Springs, CA 92262
- RIVERSIDE 4050 Main St., Riverside, CA 92501
- TEMECULA 41002 County Center Dr., #100, Temecula, CA 92591

RI-030

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address) EUGENE S. WILSON, ESQ. (107104) Law Office of Eugene Wilson 3502 Tanager Ave. Davis, CA 95616 TELEPHONE NO. 530-756-6141 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): California Clean Energy Committee	FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE SEP 17 2015 <u>C. Mundo</u>
PLAINTIFF/PETITIONER: California Clean Energy Committee DEFENDANT/RESPONDENT: City of Moreno Valley	BASE NUMBER RIC 1511118
CERTIFICATE OF COUNSEL	

The undersigned certifies that this matter should be tried or heard in the court identified above for the reasons specified below:

- The action arose in the zip code of: 92552
- The action concerns real property located in the zip code of: _____
- The Defendant resides in the zip code of: 92552

For more information on where actions should be filed in the Riverside County Superior Courts, please refer to Local Rule 1.0015 at www.riverside.courts.ca.gov.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date September 16, 2015

Eugene Wilson
(TYPE OR PRINT NAME OF ATTORNEY PARTY MAKING DECLARATION)


(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Eugene S. Wilson, Esq. (107104) Law Office of Eugene Wilson 3502 Tanager Avenue Davis, CA 95616-7531 TELEPHONE NO.: 530-756-6141 FAX NO.: 530-756-5930 ATTORNEY FOR (Name): California Clean Energy Committee		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside STREET ADDRESS: 4050 Main Street MAILING ADDRESS: CITY AND ZIP CODE: Riverside, CA 92501 BRANCH NAME: Riverside Historic Court House		
CASE NAME: California Clean Energy Committee v. City of Moreno Valley		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: 1511118 JUDGE: RIC DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/W/D (23) Non-PI/PD/W/D (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/W/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input checked="" type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

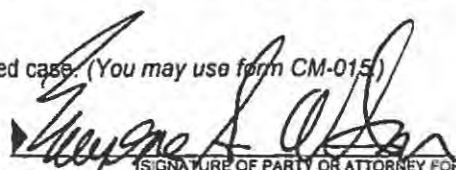
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 3

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: September 13, 2015
 Eugene S. Wilson


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a Civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)
Auto (27)—Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (06)	Antitrust/Trade Regulation (03)
Uninsured Motorist (16) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)	Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	Construction Defect (10)
	Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)	Claims Involving Mass Tort (40)
	Negligent Breach of Contract/Warranty	Securities Litigation (28)
	Other Breach of Contract/Warranty	Environmental/Toxic Tort (30)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort	Collections (e.g., money owed, open book accounts) (09)	Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)
Asbestos (04)	Collection Case—Seller Plaintiff	Enforcement of Judgment
Asbestos Property Damage	Other Promissory Note/Collections Case	Enforcement of Judgment (20)
Asbestos Personal Injury/Wrongful Death	Insurance Coverage (not provisionally complex) (18)	Abstract of Judgment (Out of County)
Product Liability (not asbestos or toxic/environmental) (24)	Auto Subrogation	Confession of Judgment (non-domestic relations)
Medical Malpractice (45)	Other Coverage	Sister State Judgment
Medical Malpractice—Physicians & Surgeons	Other Contract (37)	Administrative Agency Award (not unpaid taxes)
Other Professional Health Care Malpractice	Contractual Fraud	Petition/Certification of Entry of Judgment on Unpaid Taxes
Other PI/PD/WD (23)	Other Contract Dispute	Other Enforcement of Judgment Case
Premises Liability (e.g., slip and fall)	Real Property	Miscellaneous Civil Complaint
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)	Eminent Domain/Inverse Condemnation (14)	RICO (27)
Intentional Infliction of Emotional Distress	Wrongful Eviction (33)	Other Complaint (not specified above) (42)
Negligent Infliction of Emotional Distress	Other Real Property (e.g., quiet title) (26)	Declaratory Relief Only
Other PI/PD/WD	Writ of Possession of Real Property	Injunctive Relief Only (non-harassment)
Non-PI/PD/WD (Other) Tort	Mortgage Foreclosure	Mechanics Lien
Business Tort/Unfair Business Practice (07)	Quiet Title	Other Commercial Complaint Case (non-tort/non-complex)
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)	Other Real Property (not eminent domain, landlord/tenant, or foreclosure)	Other Civil Complaint (non-tort/non-complex)
Delamation (e.g., slander, libel) (13)	Unlawful Detainer	Miscellaneous Civil Petition
Fraud (16)	Commercial (31)	Partnership and Corporate Governance (21)
Intellectual Property (19)	Residential (32)	Other Petition (not specified above) (43)
Professional Negligence (25)	Drugs (38) (if the case involves illegal drugs, check this item, otherwise, report as Commercial or Residential)	Civil Harassment
Legal Malpractice	Judicial Review	Workplace Violence
Other Professional Malpractice (not medical or legal)	Asset Forfeiture (05)	Elder/Dependent Adult Abuse
Other Non-PI/PD/WD Tort (35)	Petition Re: Arbitration Award (11)	Election Contest
Employment	Writ of Mandate (02)	Petition for Name Change
Wrongful Termination (36)	Writ—Administrative Mandamus	Petition for Relief From Late Claim
Other Employment (15)	Writ—Mandamus on Limited Court Case Matter	Other Civil Petition
	Writ—Other Limited Court Case Review	
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal—Labor Commissioner Appeals	

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2 Law Office of Eugene Wilson
3 3502 Tanager Avenue
4 Davis, California 95616-7531
5 Phone: 530-756-6141
6 Facsimile: 530-756-5930

7 Attorney for California Clean Energy Committee

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 17 2015

C. Mundo

8 THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF RIVERSIDE
10 RIVERSIDE HISTORIC COURTHOUSE

11 CALIFORNIA CLEAN ENERGY)
12 COMMITTEE, a California nonprofit)
13 corporation,)

14 Petitioner,)

14 v.)

15 CITY OF MORENO VALLEY, a municipal)
16 corporation; and DOES 1-50, inclusive,)

17 Respondents)

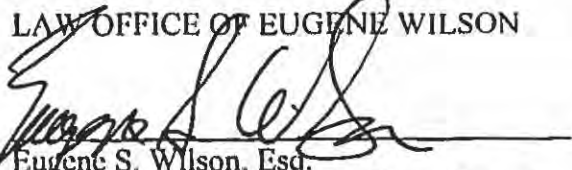
18 HIGHLAND FAIRVIEW, an entity of)
19 unknown form; and DOES 51-100, inclusive,)

20 Real Parties in Interest)

21 **RIC**
22 CASE NUMBER **1511118**
23 NOTICE OF ELECTION TO PREPARE
24 RECORD
25 [Cal. Pub. Res. Code § 21167.6]

22 Pursuant to Public Resources Code section 21167.6, petitioner California Clean Energy
23 Committee hereby gives notice of its election to prepare the record of administrative proceedings
24 relating to the above-entitled action.

25 Dated: September 13, 2014

26 LAW OFFICE OF EUGENE WILSON
27 
28 Eugene S. Wilson, Esq.
Attorney for the California Clean Energy
Committee

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF STATUS CONFERENCE

CALIFORNIA CLEAN ENERGY VS CITY OF MORENO VALLEY

CASE NO. RIC1511118

The Status Conference is scheduled for:

DATE: 11/18/15
TIME: 8:30 a.m.
DEPT: 05

All matters including, but not limited to, Fast Track hearings, law and motion, and settlement conference hearings shall be heard by the assigned judge until further order of the Court.

Any disqualification pursuant to CCP 170.6 shall be filed in accordance with that section.

The plaintiff/cross-complainant shall serve a copy of this notice on all defendants/cross-defendants who are named or added to the complaint and file proof of service.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See CA Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing Notice of Assignment To Department For Case Management Purposes and Status Conference on this date, by depositing said copy as stated above

Dated: 09/17/15

Court Executive Officer/Clerk

By:


CARMEN I. MUNDO, Deputy Clerk

ac:stch shw

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF DEPARTMENT ASSIGNMENT

CASE NO. RIC1511118

vs

TO:

This case has been assigned to the HONORABLE Judge Craig G. Riemer in Department 05 for all purposes.

Department 5 is located at 4050 Main Street, Riverside, CA 92501.

Any disqualification pursuant to CCP section 170.6 shall be filed in accordance with that section.

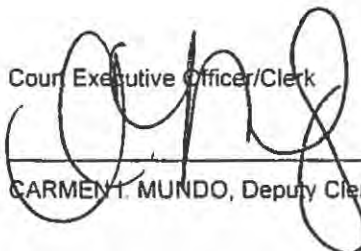
The filing party shall serve a copy of this notice on all parties.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See California Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing NOTICE on this date, by depositing said copy as stated above.

Date: 09/17/15

Court Executive Officer/Clerk
by 
CARMEN T. MUNDO, Deputy Clerk



SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
www.riverside.courts.ca.gov

Self-represented parties: <http://riverside.courts.ca.gov/selfhelp/self-help.shtml>

**ALTERNATIVE DISPUTE RESOLUTION (ADR) –
INFORMATION PACKAGE**

(California Rules of Court, Rule 3.221; Local Rule, Title 3, Division 2)

***** THE PLAINTIFF MUST SERVE THIS INFORMATION PACKAGE
ON EACH PARTY WITH THE COMPLAINT. *****

What is ADR?

Alternative Dispute Resolution (ADR) is a way of solving legal disputes without going to trial. The main types are mediation, arbitration and settlement conferences.

Advantages of ADR:

- ⌘ Faster: ADR can be done in a 1-day session within months after filing the complaint.
- ⌘ Less expensive: Parties can save court costs and attorneys' and witness fees.
- ⌘ More control: Parties choose their ADR process and provider.
- ⌘ Less stressful: ADR is done informally in private offices, not public courtrooms.

Disadvantages of ADR:

- ⌘ No public trial: Parties do not get a decision by a judge or jury.
- ⌘ Costs: Parties may have to pay for both ADR and litigation.

Main Types of ADR:

Mediation: In mediation, the mediator listens to each person's concerns, helps them evaluate the strengths and weaknesses of their case, and works with them to create a settlement agreement that is acceptable to everyone. If the parties do not wish to settle the case, they go to trial.

Mediation may be appropriate when the parties:

- ⌘ want to work out a solution but need help from a neutral person; or
- ⌘ have communication problems or strong emotions that interfere with resolution; or
- ⌘ have a continuing business or personal relationship.

Mediation is not appropriate when the parties:

- ⌘ want their public "day in court" or a judicial determination on points of law or fact;
- ⌘ lack equal bargaining power or have a history of physical/emotional abuse.

Arbitration: Arbitration is less formal than trial, but like trial, the parties present evidence and arguments to the person who decides the outcome. In "binding" arbitration the arbitrator's decision is final; there is no right to trial. In "non-binding" arbitration, any party can request a trial after the arbitrator's decision. The court's mandatory Judicial Arbitration program is non-binding.

Arbitration may be appropriate when the parties:

- ⌘ want to avoid trial, but still want a neutral person to decide the outcome of the case.

Arbitration is not appropriate when the parties:

- ⌘ do not want to risk going through both arbitration and trial (Judicial Arbitration)
- ⌘ do not want to give up their right to trial (binding arbitration)

Settlement Conferences: Settlement conferences are similar to mediation, but the settlement officer usually tries to negotiate an agreement by giving strong opinions about the strengths and weaknesses of the case, its monetary value, and the probable outcome at trial. Settlement conferences often involve attorneys more than the parties and often take place close to the trial date.

RIVERSIDE COUNTY SUPERIOR COURT ADR REQUIREMENTS

ADR Information and forms are posted on the ADR website: <http://riverside.courts.ca.gov/adr/adr.shtml>

General Policy:

Parties in most general civil cases are expected to participate in an ADR process before requesting a trial date and to participate in a settlement conference before trial. (Local Rule 3200)

Court-Ordered ADR:

Certain cases valued at under \$50,000 may be ordered to judicial arbitration or mediation. This order is usually made at the Case Management Conference. See the "Court-Ordered Mediation Information Sheet" on the ADR website for more information.

Private ADR (for cases not ordered to arbitration or mediation):

Parties schedule and pay for their ADR process without Court involvement. Parties may schedule private ADR at any time; there is no need to wait until the Case Management Conference. See the "Private Mediation Information Sheet" on the ADR website for more information.

BEFORE THE CASE MANAGEMENT CONFERENCE (CMC), ALL PARTIES MUST:

1. Discuss ADR with all parties at least 30 days before the CMC. Discuss:
 - ⌘ Your preferences for mediation or arbitration.
 - ⌘ Your schedule for discovery (getting the information you need) to make good decisions about settling the case at mediation or presenting your case at an arbitration.
2. File the attached "Stipulation for ADR" along with the Case Management Statement, if all parties can agree.
3. Be prepared to tell the judge your preference for mediation or arbitration and the date when you could complete it.

(Local Rule 3218)

RIVERSIDE COUNTY ADR PROVIDERS INCLUDE:

- ⌘ The Court's Civil Mediation Panel (available for both Court-Ordered Mediation and Private Mediation). See <http://adr.riverside.courts.ca.gov/adr/civil/panelist.php> or ask for the list in the civil clerk's office, attorney window.
- ⌘ Riverside County ADR providers funded by DRPA (Dispute Resolution Program Act):
Dispute Resolution Service (DRS) Riverside County Bar Association: (951) 682-1015
Dispute Resolution Center, Community Action Partnership (CAP): (951) 955-4900

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	COURT USE ONLY CASE NUMBER: CASE MANAGEMENT CONFERENCE DATE(S):
SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE <input type="checkbox"/> Banning - 135 N. Alessandro Road, Banning, CA 92220 <input type="checkbox"/> Hemet - 880 N. State Street, Hemet, CA 92543 <input type="checkbox"/> Indio - 46-200 Oasis Street, Indio, CA 92201 <input type="checkbox"/> Riverside - 4050 Main Street, Riverside, CA 92501 <input type="checkbox"/> Temecula - 41002 County Center Drive, Bldg. C - Suite 100, Temecula, CA 92591	
PLAINTIFF(S): DEFENDANT(S):	CASE NUMBER: CASE MANAGEMENT CONFERENCE DATE(S):
STIPULATION FOR ALTERNATIVE DISPUTE RESOLUTION (ADR) (CRC 3.2221; Local Rule, Title 3, Division 2)	

Court-Ordered ADR:

Eligibility for Court-Ordered Mediation or Judicial Arbitration will be determined at the Case Management Conference. If eligible, the parties agree to participate in:

- Mediation Judicial Arbitration (non-binding)

Private ADR:

If the case is not eligible for Court-Ordered Mediation or Judicial Arbitration, the parties agree to participate in the following ADR process, which they will arrange and pay for without court involvement:

- Mediation Judicial Arbitration (non-binding)
 Binding Arbitration Other (describe): _____

Proposed date to complete ADR: _____.

SUBMIT THIS FORM ALONG WITH THE CASE MANAGEMENT STATEMENT.

PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE
PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE
PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE
PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE
<input type="checkbox"/> Additional signature(s) attached		

1 EUGENE S. WILSON, ESQ. (107104)
2 Law Office of Eugene Wilson
3 3502 Tanager Avenue
4 Davis, California 95616-7531
5 Phone: 530-756-6141
6 Facsimile: 530-756-5930

7 Attorney for California Clean Energy Committee

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 17 2015

C. Munde

8 THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF RIVERSIDE
10 RIVERSIDE HISTORIC COURTHOUSE

11 CALIFORNIA CLEAN ENERGY)
12 COMMITTEE, a California nonprofit)
13 corporation,)

14 Petitioner,)

15 v.)

16 CITY OF MORENO VALLEY, a municipal)
17 corporation; and DOES 1-50, inclusive,)

18 Respondents)

19 HIGHLAND FAIRVIEW, an entity of)
20 unknown form; and DOES 51-100, inclusive,)

21 Real Parties in Interest)

CASE NUMBER **RIC 1511118**

PROOF OF SERVICE OF NOTICE OF
INTENT TO FILE CEQA PROCEEDING

22
23 I, Eugene S. Wilson, declare as follows:

24 1. I am, and was at the time of service of the papers herein referred to, over the age of
25 eighteen years and not a party to the within action.

26 2. I am employed in the County of Yolo, California, in which county the within-
27 mentioned mailing occurred. My business address is 3502 Tanager Avenue, Davis, California
28 95616.

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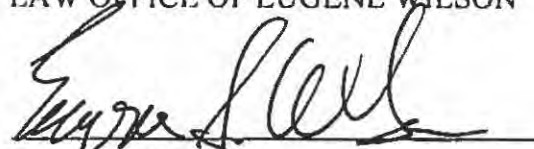
NOTICE OF INTENT TO FILE CEQA ACTION

TO THE CITY OF MORENO VALLEY:

PLEASE TAKE NOTICE, under Public Resources Code section 21167.5, that the California Clean Energy Committee intends to file an action under the provisions of the California Environmental Quality Act against respondent City of Moreno Valley challenging the certification of the final environmental impact report and the approval of the World Logistics Center project and related actions by the City of Moreno Valley on August 19, 2015. A copy of the Petition for Writ of Mandate Pursuant to the California Environmental Quality Act is attached hereto as Exhibit A.

DATED: September 13, 2015

LAW OFFICE OF EUGENE WILSON


Eugene S. Wilson, Esq.
Attorney for California Clean Energy
Committee

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2 Law Office of Eugene Wilson
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5 Phone: 530-756-6141
6 Facsimile: 530-756-5930

7 Attorney for California Clean Energy Committee

8 THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF RIVERSIDE
10 RIVERSIDE HISTORIC COURTHOUSE

11 CALIFORNIA CLEAN ENERGY)	CASE NUMBER
12 COMMITTEE, a California nonprofit)	
13 corporation,)	PETITION FOR WRIT OF MANDATE
)	PURSUANT TO THE CALIFORNIA
14 Petitioner,)	ENVIRONMENTAL QUALITY ACT
15 v.)	
16 CITY OF MORENO VALLEY, a municipal)	
17 corporation; and DOES 1-50, inclusive,)	
)	
18 Respondents)	
<hr/>		
19 HIGHLAND FAIRVIEW, an entity of)	
20 unknown form; and DOES 51-100, inclusive,)	
)	
21 Real Parties in Interest)	
<hr/>		

22
23 Petitioner California Clean Energy Committee, by and through its attorney, alleges as
24 follows:

25
26 GENERAL ALLEGATIONS

27 1. Respondent City of Moreno Valley (City) is a general law city and a political
28 subdivision of the State of California. The City is the primary agency responsible for the project

1 described herein and as such the lead agency responsible under the California Environmental Quality
2 Act (CEQA) for preparation of the environmental impact report and for the design of the
3 environmental mitigation for the project described herein.

4 2. Petitioner California Clean Energy Committee (Clean Energy) is a nonprofit
5 corporation incorporated under the laws of the State of California maintaining its principal place of
6 business in the City of Davis, California. Clean Energy advocates on behalf of the general public
7 throughout the State of California for energy conservation, the development of clean energy
8 resources, reduced greenhouse gas emissions, sustainable transportation, smart growth, farmland
9 preservation, and related issues. Clean Energy actively supports the application of CEQA to energy
10 conservation and related issues.

11 3. Over twenty individuals in Moreno Valley have joined Clean Energy's campaign to
12 request that the City provide robust energy conservation and environmental stewardship in the
13 World Logistics Center project.

14 4. Clean Energy brings this action as a representative of the general public in the region
15 and across California who will be affected by the project. The general public will be directly and
16 adversely impacted by the implementation of the project and by the failure of the City to adequately
17 evaluate the impacts of the project and by its failure to identify and adopt enforceable mitigation for
18 the project impacts as required pursuant to CEQA.

19 5. Without a representative organization such as Clean Energy, it would be impractical
20 and uneconomic for individual members of the public to enforce CEQA with respect to the project
21 discussed herein. Without a representative action such as this one, the violations of CEQA described
22 in this petition would remain immune from judicial review. Petitioner is informed and believes, and
23 based thereon alleges, that no governmental agency is prepared to evaluate the environmental issues
24 or to enforce the public rights that are at stake.

25 6. Venue for this action is proper in this court because the environmental impacts of the
26 actions alleged herein will cause direct and substantial impacts within the City of Moreno Valley and
27 because the principal office of the respondent agency is situated within the City of Moreno Valley.

28 7. Concurrently herewith petitioner is filing a declaration of prior service by mail upon

1 the City of written notice of intent to commence this action in compliance with the requirements of
2 Public Resources Code section 21167.5.

3 8. Petitioner is further filing and serving herewith notice of its election to prepare the
4 administrative record in this matter pursuant to Public Resources Code section 21167.6.

5 9. The true names and capacities of the respondents and real parties in interest sued
6 herein under California Code of Civil Procedure section 474 as Does 1 through 100, inclusive, are
7 presently unknown to petitioner. Does 1 through 100 include agents of the county, state, and federal
8 government who are responsible in some manner for the conduct described herein and real parties in
9 interest presently unknown to the petitioner who claim some legal or equitable interest in the project
10 who petitioner therefore sues by such fictitious names. Petitioner will amend this petition to include
11 these Doe respondents' true names and capacities when they are ascertained. Each of the fictitiously-
12 named respondents is responsible in some manner for, or affected by, the conduct alleged herein.

13 10. Clean Energy's action herein will result in the enforcement of important rights
14 affecting the public interest and confer substantial benefits on the general public. The necessity and
15 financial burden of private enforcement justify an award of attorney fees pursuant to Code of Civil
16 Procedure section 1021.5.

17 11. Despite the extensive comments received, the City has nevertheless prepared and
18 relied on an EIR that falls well below CEQA's minimum standards. If the City is allowed to proceed
19 with the project, irreparable harm will result to the environment and to the public. No adequate
20 remedy, other than that prayed for herein, exists by which the rights of the petitioner and the class it
21 represents may be protected.

22 12. Clean Energy has exhausted all administrative remedies by submitting written
23 comments on the project requesting compliance with CEQA and a full and adequate environmental
24 review. All issues raised in this petition were raised with the City by Clean Energy or by other
25 members of the public or public agencies prior to the certification of the EIR. The City has made its
26 final decision. This petition is timely filed in accordance with Public Resources Code section 21167
27 and CEQA Guidelines section 15112.

28

1
2 PROCEDURAL BACKGROUND

3 13. The project area encompasses approximately 3,818 acres which are largely within the
4 City of Moreno Valley, bounded by Redlands Boulevard to the west, State Route 60 on the north,
5 Gilman Springs Road on the east, and the San Jacinto Wildlife Area on the south. 2,610 acres of the
6 total project area have been designated for the World Logistics Specific Plan. The project would
7 entail building and operating 40,600,000 square feet of warehouse development within the specific
8 plan area. The remainder of the project area would largely constitute open space.

9 14. The project application includes general plan amendments, a specific plan to regulate
10 and direct future development within the specific plan area, a change of zoning to logistics and
11 warehouse uses within the specific plan area, pre-zoning of 84 acres of land for future annexation, a
12 tentative parcel map consisting of 26 separate parcels, and a development agreement with a duration
13 of up to 25 years.

14 15. On February 21, 2012, the City published a Notice of Preparation of an
15 environmental impact report for the project. The City conducted a scoping meeting on March 12,
16 2012. A draft programmatic environmental impact report was subsequently prepared and notice of
17 the availability of the draft EIR was distributed on February 5, 2013. The public review period for
18 the draft EIR extended to April 8, 2013. Numerous government agencies, organizations, and
19 individuals submitted comment letters on the draft EIR. On May 1, 2015, the City published the
20 final environmental impact report.

21 16. On June 11, 2015, June 25, 2015 and June 30, 2015, the Planning Commission of the
22 City of Moreno Valley held public meetings to consider the proposed project. On June 30, 2015, the
23 Planning Commission recommended that the City Council certify the Final Environmental Impact
24 Report (EIR) and approve of the Statement of Overriding Conditions and the Mitigation and
25 Monitoring Program.

26 17. On August 19, 2015, the City Council met and adopted Resolution No. 2015-56
27 which certified the final EIR for the project, adopted findings and a statement of overriding
28 considerations, and approved the mitigation and monitoring program. At that time the City Council

1 further adopted Resolution No. 2015-57 approving the general plan amendments; adopted Ordinance
2 No. 900 approving the zone change, the specific plan, and the pre-zoning; adopted Resolution No.
3 2015-58 approving tentative parcel map 36457; adopted Ordinance No. 901 approving the
4 development agreement; adopted Resolution No. 2015-59 requesting that the Riverside Local
5 Agency Formation Commission (LAFCO) initiate proceedings to expand the city boundary; and
6 adopted Resolution No. CSD 2015-29 requesting LAFCO to initiate proceedings to expand the
7 community services district boundary.

8 9 FAILURE TO ANALYZE INCREASED ENERGY USAGE

10 18. Initially, the City determined that due to the size of the proposed project, the energy
11 impacts were potentially significant and then attempted to evaluate those impacts in the EIR. Clean
12 Energy advised the City that the EIR should contain an evaluation of the amount of electrical energy
13 used on the project site at the present time, should compare that usage with the amount of electrical
14 energy that would be used at the time of project build out, and based on the increased usage
15 determine that there would be a significant impact to energy if the project were approved. Clean
16 Energy advised the City to evaluate the extent to which the construction and operation of the project
17 could be fueled by renewable resources.

18 19. The City chose to disregard those recommendations. The City estimated that annual
19 electrical usage from the operation of the project would be approximately 376 gigawatt hours. The
20 City did not determine or report the amount of electrical energy currently used on the project site. It
21 did not disclose or describe the energy usage baseline for the environmental analysis. It did not
22 report or consider the extent to which that demand would be served by fossil-fired or renewable
23 generation. The City did not determine, consider, or report the amount of energy that would be used
24 in the construction of the project or what portion of that energy would be derived from renewable
25 resources. The City failed to determine or consider whether the increase in electrical usage by the
26 project would constitute a substantial or potentially substantial adverse change in the physical
27 environment.

28 20. Rather, the EIR simply concluded that the project would not have significant energy

1 impacts because, like other projects in California, the project would comply with the building code
2 requirements in Title 24, Part 6, of the California Code of Regulations (Title 24) and further because
3 the project would comply with some unidentified "service requirements" of the utilities. In
4 particular, the City stated that "[b]ecause the proposed WLC project would be required to adhere to
5 standards contained in Title 24 in addition to requirements set forth by the respective utility
6 providers, development of the proposed WLC project would not result in the wasteful, inefficient or
7 unnecessary consumption of energy."

8 21. Stating that the project would comply with Title 24 did not constitute an adequate
9 assessment of energy impacts under CEQA because such an analysis does not constitute a evaluation
10 of the impact of the project on the physical environment. Energy impacts under CEQA Guidelines
11 are not simply the requirements of Title 24. Title 24 does not take into account whether an increase
12 of 376 gigawatt hours in electrical consumption constitutes a substantial adverse change in the
13 physical environment. Title 24 does not address whether buildings should be constructed at all, how
14 large buildings should be, where they should be located, whether they should incorporate renewable
15 energy resources, construction energy impacts, transportation energy impacts, diesel and gasoline
16 usage impacts, renewable energy impacts, energy storage, peak load impact, or other factors
17 encompassed by the CEQA Guidelines. Title 24 does not ensure that significant and unnecessary
18 increases in fossil-fuel usage will not take place. Moreover, Title 24 compliance does not preclude
19 the wasteful, inefficient or unnecessary consumption of energy.

20 22. Consequently, the City failed to meet the information disclosure requirements of
21 CEQA. It failed to identify the energy usage baseline. It failed to determine what increase in energy
22 usage would result from the construction and operation of the project. It failed to consider whether
23 the increased energy usage would constitute a substantial adverse change in the physical
24 environment. It failed to report whether the increased electric energy would be generated by fossil-
25 fired or renewable resources. It failed to identify or evaluate whether the project would adversely
26 impact energy due to its location, its configuration, its reliance on fossil fuels, its failure to
27 implement feasible renewable energy resources, its impact on peak load, its use of transportation and
28 material handling energy, its use of construction energy usage, or its failure to adopt energy storage.

1 The City failed to find out and disclose all that it reasonable could. The City's findings concerning
2 the energy impacts of the project are not supported.

3
4 FAILURE TO ANALYZE TRANSPORTATION ENERGY USAGE

5 23. The City projected that the proposed warehousing would generate considerable truck
6 traffic as well as vehicle trips due to employees commuting to the site. Material handling equipment
7 used on site to load and unload trucks will also require energy. Clean Energy advised the City that it
8 should address the transportation energy impacts of the project and the energy impacts from on-site
9 equipment operation, including both fuel type and end use. Clean Energy advised the City that it
10 should evaluate the potential for serving those energy loads from sustainable resources.

11 24. Nevertheless, the City's description of the project failed to discuss transportation or
12 equipment energy use, failed to discuss the kinds or quantities of fuels that would be used for those
13 purposes, and failed to identify the additional energy that would be consumed per vehicle trip by
14 mode. The assertion in the final EIR that the project's energy consumption would consist of 376
15 gigawatt hours of electricity and 14 million cubic feet of natural gas is materially misleading because
16 it ignores energy consumption by transportation and materially-handling equipment.

17 25. Consequently the EIR fails to comply with the information disclosure provisions of
18 CEQA which require that the City discuss the transportation and equipment energy usage associated
19 with the construction and operation of the project and determine whether that energy usage
20 constitutes a significant impact to energy. CEQA is violated when an EIR fails to discuss a
21 potentially significant environmental consideration. The City has failed to find out and report all
22 that it can concerning energy usage. The City's findings concerning energy impacts are not
23 supported.

24
25 FAILURE TO ANALYZE RENEWABLE ENERGY

26 26. The CEQA Guidelines define energy conservation as increasing reliance on
27 renewable energy resources, decreasing reliance on fossil fuels, and reducing energy consumption.
28 Alternative fuels and renewable energy systems must be considered in an EIR to the extent relevant

1 and applicable to the project.

2 27. Clean Energy advised the City to evaluate strategies for reducing reliance on fossil
3 fuels, for reducing reliance on remote generation facilities, and for increasing reliance on renewable
4 resources. Clean Energy informed the City of a variety of renewable energy resources potentially
5 available to the project including solar radiation, wind, geothermal, biofuels, and biomass. Clean
6 Energy informed the City that the warehouse roof space was capable of supporting many megawatts
7 of solar generation that could be managed under contract by the City of Moreno Valley Electric
8 Utility. Clean Energy advised the City that it should evaluate the options for putting the entire
9 project on 100 percent renewable electrical energy or on some lesser percentage of renewable
10 electricity as may be feasible. Clean Energy further informed the City that to effectively increase
11 renewable energy usage, it would be necessary to consider renewable generation as an element of the
12 original project design.

13 28. The City failed to consider the impact on renewable energy and chose instead to rely
14 on Title 24 compliance. The City responded that an analysis of renewable energy content was
15 “unnecessary to achieve the goal sought by the commenter, which is fueling the construction and
16 operation of the project from renewable electric generation of reduced emissions fuels” in view of
17 the mitigation measures adopted. The City pointed out that mitigation measure 4.16.4.6.1C would
18 require solar panels to serve “ancillary office uses,” that the project would comply with the City’s
19 requirement for 10 percent over Title 24, and that a basic LEED certification would be sought. The
20 City asserted that these measures would exceed the goals established by AB 32 for reducing GHG
21 emissions.

22 29. The City's haphazard use of AB 32 as a measure of renewable energy impacts is
23 unsupported. AB 32 does not constitute a proxy for the effective implementation of renewable
24 energy. AB 32 does not provide standards for assessing renewable energy impacts. A bare
25 conclusion regarding an environmental impact without an explanation of the analytic and factual
26 basis is not sufficient. An EIR must be prepared with a sufficient degree of analysis to provide
27 decisionmakers with the information required to make an intelligent decision. EIR requirements are
28 not satisfied by saying an impact will be something less than some unknown amount. The City's

1 findings regarding energy are unsupported.

2 30. The City further asserted that the benefits of providing renewable energy for this
3 project had been evaluated in Appendix N-2 of the final EIR. Yet the EIR does not reference or
4 discuss the information contained in Appendix N-2. Information buried in an appendix cannot
5 substitute for reasoned analysis in the EIR.

6 31. Moreover, the information in Appendix N-2 contradicts the City's conclusions with
7 respect to renewable energy impacts. Appendix N-2 demonstrates a substantial adverse impact on
8 renewable energy. It concludes that solar panels "could and should be implemented" to reduce
9 building electric demand to zero during times of peak solar production. Appendix N-2 concluded
10 that the project should implement sufficient photovoltaic solar arrays to meet the buildings' electrical
11 demand during times of peak solar production so that a "building's user will not need to utilize utility
12 company provided power." Appendix N-2 states that the project should provide for "coordinating
13 the design of the solar arrays with the actual buildings [sic] electrical demands."

14 32. To the contrary, the EIR states that the project will only implement solar arrays for
15 the "ancillary office uses." Providing only sufficient solar generation to serve "ancillary office
16 uses," rather than following the guidance of Appendix N-2, demonstrates a significant and adverse
17 impact to renewable generation. Appendix N-2 demonstrates that the project will fail to adopt
18 feasible on-site renewable generation and that the project will entail a substantial adverse impact to
19 energy conservation. The City's conclusion is contradicted by its own report and unsupported.

20 33. Clean Energy engaged a highly-regarded energy consulting firm, HOMER Energy,
21 to undertake a preliminary design and analysis of the electrical energy system for the project. That
22 study further demonstrates the adverse impact of the project's energy design. The HOMER analysis
23 considered various combinations of rooftop solar photovoltaics, lithium-ion batteries, and on-site gas
24 turbine generation. Three scenarios were modeled to identify low-cost, high-renewable designs that
25 could be implemented by the City of Moreno Valley Electric Utility –

- 26 • Traditional Grid Service—a traditional utility grid fed entirely by off-site generation
27 procured by the Moreno Valley Utility,
- 28 • Isolated Grid Service—an isolated electric service system located at the project site

- 1 and operated by the Moreno Valley Utility independently of its existing electric grid,
- 2 • Hybrid Grid Service—a hybrid between traditional grid service and an isolated grid
- 3 service, where the Moreno Valley Utility would serve the project with a combination
- 4 of off-site generation and on-site photovoltaic generation, battery storage, and gas-
- 5 turbine generation.

6 34. HOMER concluded that implementing either the Isolated Grid Service option or the

7 Hybrid Grid Service option would reduce electric energy costs and also significantly increase the

8 renewable content of the electric power supply for the project. In the case of the hybrid grid design,

9 the analysis concluded that a 71 percent renewable content could be achieved while energy costs

10 would be less than with a traditional grid design. The hybrid design also provided better service than

11 the other scenarios by increasing electric power system reliability, a valuable system attribute.

12

	Levelized Cost of Energy per kWh	Renewable Content	Exposure to Natural Gas Volatility	Resiliency
13 Traditional Grid	\$0.179	33%	Medium	Good
14 Isolated Grid	\$0.151	58%	High	Fair
15 Hybrid Grid	\$0.164	71%	Medium	Excellent

16

17

18 35. In reaching this conclusion, HOMER adopted a number of conservative assumptions

19 that disfavored renewable energy including (i) no value was attached to the ancillary services that

20 localized generation could likely sell to the larger grid, (ii) no value was attached to increased grid

21 resilience and the avoidance of expensive back-up generation that would be achieved, (iii) no value

22 was taken for the sale of solar energy that was not used on-site that could be sold to other customers

23 in the local service territory or beyond, and (iv) no credit was taken for capital cost savings achieved

24 by avoiding the development of additional off-site generation.

25

26 36. Both the City's analysis in Appendix N-2 and the HOMER analysis constitute

27 substantial evidence of a significant adverse impact to renewable energy. Yet, no analysis of the

28 impact on renewable energy was considered in the EIR. Decisionmakers and the public were

1 erroneously informed that there would be no significant adverse impacts to energy. The EIR failed
2 to comply with the information disclosure requirements of CEQA. The City failed to exercise its
3 best efforts to find out and disclose all that it could about energy impacts. The City's findings with
4 respect to the energy impacts of the project are unsupported.

5 37. Further the City failed to identify or address the impact of a project design that
6 requires significant capital investment in long-lived traditional utility infrastructure, rather than
7 renewable energy infrastructure. The City failed to identify or discuss the economic and logistic
8 barriers that would be created to the future development of on-site renewables in the future. The
9 City failed to address the irreversible commitment of resources by the project in a manner that would
10 preempt future energy conservation.

11 END-USE OF ENERGY

12 38. Clean Energy advised the City that its analysis of the energy load should be based
13 upon a typical high-cube warehouse and that the EIR should address lighting, space conditioning,
14 battery recharging, equipment, transportation, water heating, and other categories of foreseeable
15 energy usage. Clean Energy provided the City with detailed information on typical warehouse
16 energy usage along with sources of data from which warehouse electric load could be derived.
17 Nevertheless, the City failed to provide information on how electrical, petroleum or natural gas
18 energy would be used. No data was provided on the percentage of energy that would potentially be
19 used for lighting, space heating and cooling, equipment operation, material handling, transportation,
20 etc. The City failed to discuss energy use patterns for similar projects in the locality or in the region.

21 39. The CEQA Guidelines provide that the project description should address the energy
22 consuming equipment and processes that will create the projected level of energy usage during
23 project operation. The Guidelines provide that the EIR should address energy requirements by end
24 use. The City failed to comply with the information disclosure requirements of CEQA by failing to
25 address the energy consuming equipment and processes which would potentially account for the
26 projected 376 gigawatt hours of electrical usage per year, the 14,616,000 cubic feet of natural gas
27 usage per year, and for the undetermined diesel fuel usage.
28

1
2 PEAK LOAD AND ENERGY STORAGE

3 40. The City stated that the project's peak electric demand would be 68 megawatts.
4 Appendix N-2 of the EIR contained a graph showing that peak electric demand as approximately
5 twice base period electrical demand. Appendix N-2 concluded that "twelve new 12kV distribution
6 circuits would be needed to meet the peak electrical demand." It stated that peak electrical demand
7 would not be coincident with peak PV output and therefore concluded that the project would not be
8 able to utilize the full solar potential of the warehouse rooftops.

9 41. Clean Energy advised the City that the energy analysis should evaluate strategies for
10 reducing peak loads. Clean Energy informed the City of the higher rates charged for electricity
11 during peak hours. Clean Energy advised the City to use storage to avoid demand at times of peak
12 load. Clean Energy advised the City that district chilled water systems reduce peak demand and
13 reduce the costs of serving peak demand. Clean Energy pointed out that energy storage should be
14 evaluated and suggested various forms of potential energy storage.

15 42. Nevertheless, the City's analysis of energy impacts did not consider whether the
16 project would have a significant adverse effect on peak energy demand. Instead the City relied
17 exclusively on a comparison to Title 24. Title 24 does not address energy storage or peak energy
18 demand.

19 43. In Appendix N-2 the City assumed that all electricity had to be sent to an end-user for
20 immediate use. It ignored the potential to store excess electrical generation for later use and reached
21 the unsupported conclusion that "full utilization of the PV potential [was] economically infeasible"
22 due to the fact that peak demand would not coincide and that the proposed electrical infrastructure
23 allegedly could not deliver excess generation to other customers.

24 44. The City's conclusions in Appendix N-2 were unsupported. The HOMER energy
25 analysis pointed out that "[e]lectrical storage is a high value option for electricity supply. Recent
26 energy storage price declines and performance improvements are increasingly making electro-
27 chemical battery storage a viable option" HOMER modeled lithium-ion batteries at \$700 per
28 kWh of storage capacity and assumed a 77 percent round-trip efficiency. HOMER determined that

1 using large numbers of batteries was cost-effective and that the project could achieve 71 percent
2 renewable content using a combination of batteries and rooftop solar.

3 45. CEQA requires that an energy analysis address impacts on peak period demand for
4 electricity. The project will have a significant impact on peak energy which should have been
5 evaluated as a significant impact and mitigated. The City's conclusion that there would be no
6 significant impact to energy is not supported. The City's failure to consider energy storage
7 constitutes a failure to find out and report on critical aspects of the project's energy impacts. The
8 findings are unsupported. The analysis of energy is insufficient to provide decisionmakers with the
9 information needed to make an intelligent decision. The City has not used its best efforts to find out
10 and disclose all that it reasonably can.

11 12 GROUND SOURCE HEAT PUMPS

13 46. Clean Energy recommended to the City that ground source heat pumps be evaluated
14 to increase project energy efficiency. The City responded that using ground source heat pumps
15 would result in maintenance issues. There is no evidence to support that assertion. Plastic piping is
16 routinely installed under buildings and parking lots for many purposes including plastic electric
17 conduits, plastic gas piping, plastic water pipe, and plastic sewer pipe. Like other plastic pipes,
18 geothermal loops last indefinitely and do not require maintenance. Installation under a parking lot
19 actually reduces the danger that the pipes will be damaged by excavation. Further installation under
20 parking lots is only one option. Geothermal loops are often installed vertically which does not
21 involve putting them horizontally under a parking lot.

22 23 DISTRICT ENERGY

24 47. Clean Energy informed the City that district heating and chilled water should be
25 evaluated for use project-wide in lieu of packaged HVAC units. Clean Energy pointed out that
26 chilled water and hot water could be provided by one or more solar thermal installations. Similarly,
27 the City concluded in Appendix N-2 that "[u]se of remainder available rooftop space for other uses
28 such as . . . solar assisted space heating/cooling could also be environmentally beneficial and might

1 even further reduce project peak electric demands.”

2 48. Nevertheless, the City failed to provide any explanation or analysis of solar assisted
3 space heating/cooling or district energy. The City relied on the erroneous assumption that district
4 energy would be unlawful in California. However, Clean Energy informed the City that the City of
5 Moreno Valley Utility would be an appropriate entity to implement a shared energy system. A
6 municipal utility has the lawful authority to do so. Numerous district energy systems already exist in
7 California and they are not unlawful.

8 9 CLIMATE DISRUPTION

10 49. In the analysis of climate impacts in the final EIR, the City excluded emissions from
11 the transportation sector and emissions from the electricity sector. Failure to include such a
12 significant component of the GHG emissions in the analysis was unlawful under CEQA.

13 50. The City referred to the California Cap-and-Trade Program adopted pursuant to the
14 California Global Warming Solutions Act of 2006 (Health & Safety Code, §§ 38500 et seq. (AB
15 32)). The existence of a statewide program designed to reduce emissions from those economic
16 sectors does not justify excluding emissions from those sectors from the analysis of project impacts
17 under CEQA. The analysis of impacts under CEQA must address the “project,” which under CEQA
18 means “the whole of an action.” (CEQA Guidelines, §15378.)

19 51. The cap is set for 2020 and it does not ensure that the contribution to global climate
20 change by covered entities will be less than significant. Cap-and-trade is only designed to return
21 carbon emissions to what the state experienced in 1990. There is no plan, no program, and no
22 assurance that cap-and-trade can reduce carbon emissions below 1990 levels. Consequently, cap-
23 and-trade would not reduce carbon emissions to less than significant.

24 52. Further the Cap-and-Trade Program does not regulate the proposed project because
25 the World Logistic Center is not a covered entity. No relevant public agency has adopted
26 regulations or requirements to reduce or mitigate the GHG emissions of warehouse projects. The
27 City’s EIR refers to examples that involve oil refineries that are covered entities under the Cap-and-
28 Trade Program. The City’s analysis and findings concerning the GHG impacts of the project are

1 encourage commuting by more sustainable modes such as transit, rail, biking, van pools, and car-
2 pooling.

3 57. Petitioner informed the City that commuter benefits programs are based on a traffic
4 mitigation plan that includes public outreach to commuters through various media including
5 workplace promotion, social media, on-line ride matching, signage, on-site transit pass sales, on-site
6 transit information, discounted transit passes, and coordination with transit agencies. Such a
7 program could be operated under the joint supervision of the City of Moreno Valley and the
8 Riverside County Transportation Agency.

9 58. Petitioner recommended that employers located at the project site be required to
10 mitigate transportation impacts by actively participating in and contributing to the commuter benefits
11 program. Securing the participation of all employers on the project site would avoid the expense and
12 administrative burdens of setting up individual programs and provide a more effective and
13 responsive program under the supervision of specialized staff.

14 59. Petitioner further recommended that air quality and transportation impacts be
15 mitigated by adopting a transit-oriented development (TOD) design. TOD integrates transit service
16 into the layout of the project so that transit services are convenient and obvious at employment sites.
17 Designing the project around an effective transit plan encourages transit by making it simple,
18 convenient, clean, and economic for employees to commute to work by sustainable modes thus
19 mitigating transportation and air quality impacts.

20 60. The City failed and refused to implement a transit funding charge, failed and refused
21 to use on-going financial incentives to attract commuters to transit or alternative modes, and failed to
22 require development of a transportation management plan for the project or to provide funding for
23 management of such a transportation management program. These steps are essential to mitigating
24 the adverse impacts to air quality and transportation. The City has failed to discuss feasible
25 mitigation for transportation and air quality impacts. It has adopted mitigation that will not reduce
26 transportation and air quality impacts to less than significant. The City's findings are not supported
27 by substantial evidence.

28 61. Rather than implementing transportation demand management, the City has chosen to

1 rely on numerous costly roadway expansions and freeway expansions to address transportation
2 demand. It is widely recognized that roadway expansions stimulate additional traffic. The
3 additional roadway capacity the City is requiring as part this project will encourage people living or
4 working in the area to commute greater distances using the expanded roadways capacity. The EIR
5 fails to evaluate the impacts resulting from the proposed transportation mitigation.

6 62. The record shows that freight vehicle miles travelled (VMT) will increase
7 significantly for trucking. The U.S. Energy Information Administration projects truck VMT will
8 increase an average of 1.9 percent annually from 2013 to 2040, going from 256 billion to 411 billion
9 miles annually. This is a significant cumulative impact. The City projects diesel VMT from the
10 project to be 420,400 miles per day. Consequently, the project will make a substantial contribution
11 to a significant cumulative impact. Clean Energy advised the City to analyze the VMT impacts of
12 the project and the City failed to do so and thus failed to comply with CEQA.

13 14 ALTERNATIVE FUELING

15 63. Clean Energy pointed out that air quality impacts could be mitigated by requiring
16 trucks and material handling equipment on site such as forklifts to be powered using renewable
17 energy. Forklifts and similar equipment can be operated with hydrogen or electricity as opposed to
18 natural gas thereby reducing local emissions to zero. It was pointed out that solar photovoltaic on
19 warehouse roofs can charge vehicle batteries or operate hydrogen electrolysis to power zero-
20 emissions fleet vehicles.

21 64. Clean Energy insisted that the EIR evaluate mitigation that requires companies to
22 operate with sustainably-fueled, zero-emissions vehicles and equipment. Battery powered, zero-
23 emission delivery vans are commercially available. They operate more economically due to lower
24 maintenance and reduced fuel costs. Such equipment could be phased in by on-site companies that
25 operate their own fleets. Clean Energy also recommended that the City explore offsetting emissions
26 from the project by providing Riverside Transit Authority with funding to convert a number of buses
27 to hydrogen-powered and to provide H2 fueling services to buses at the alternative fueling station on
28 site.

1 65. City responded that the site could not be limited exclusively to trucks operating on
2 renewable fuels and that the trucks accessing the site would not be under the control of the developer
3 or tenants and thus could not be controlled. Such a response does not constitute a good-faith
4 reasoned response to the comment. Petitioner did not suggest that the site be limited exclusively to
5 trucks operating on renewable fuels. Further, the City has demonstrated that it does have sufficient
6 control by concluding that it is feasible to require tenants to ensure that vehicles are maintained to
7 manufacturer standards, feasible to require that yard trucks meet Tier 4 standards, and feasible to
8 ensure that diesel trucks meet 2010 emission standards. (MM 4.3.6.3B.) If such mitigation can be
9 enforced, similar mitigation could be enforced providing that vehicles operated at the project site be
10 transitioned to cleaner fuels. Compliance could be required through lease provisions. Alternatively,
11 economic incentives could be offered to project tenants who demonstrate that a portion of their fleet
12 or material handling equipment has been reduced to zero-emission.

13 66. The City also concluded that alternatively-fueled trucks do not have “enough market
14 penetration.” The evidence reflects that alternatively-fueled vehicles and equipment are available
15 and that they are cost effective in appropriate applications. Project tenants who operate forklifts or
16 who operate their own truck fleets, such as package delivery companies, can feasibly operate an
17 increasing portion of their fleets using zero-emission equipment.

18 67. The City’s blanket refusal to require alternatively-fueled vehicles is unsupported.
19 The EIR has failed to discuss feasible mitigation. The City has failed to use best efforts to find out
20 all that it can concerning the transition to low-emissions and zero-emission fuels. The City has
21 failed to adopt feasible mitigation for the significant air quality impacts of the project. The City’s
22 findings are unsupported.

23 68. Under direction from the California Legislature, hydrogen fueling infrastructure is
24 being rapidly deployed in California at this time. Petitioner urged the City to incorporate hydrogen
25 fueling and biofuels into the alternative fueling station. The City responded by pointing to
26 mitigation measure MM 4.3.6.3C, which provides that in the future, the project will develop a
27 fueling station “offering alternative fuels (natural gas, electricity, etc.) for purchase by the motoring
28 public.” The City did not discuss or require the station to provide hydrogen or biofuels under any

1 circumstances. The failed to recognize that fuel cell automobiles are currently available and on the
2 market in Southern California and that fuel cell trucking will be necessary to meet California's
3 emission reduction plans. The City should require the project to ensure that hydrogen and biofuel
4 refueling facilities will be made available at such time as those facilities would be an effective tool
5 for promoting transition to those fuels either by automobiles or by trucks. The City has failed to find
6 out and disclose all that it reasonably can concerning alternative fueling and has failed to provide for
7 feasible mitigation. The City's findings are unsupported.

8 9 PARKING

10 69. Clean Energy pointed out that all employers owning or leasing buildings at the
11 project site should be required to offer parking cash-out to employees to mitigate air quality and
12 transportation impacts. Parking cash-out means that employers are required to offer employees the
13 option of receiving a cash payment in lieu of receiving an employer-paid, vehicle parking space.

14 70. It costs thousands of dollars to build parking stalls for employees and parking takes
15 up valuable real estate. By using parking cash-out, employers can reduce the expenses they incur to
16 provide employee parking and use the savings to fund a financial incentive for employees to
17 commute via more sustainable modes. Employers save money by reducing the number of parking
18 spaces they are required to buy or lease for employees while they mitigate the air quality and
19 transportation impacts of the project.

20 71. The City responded that SCAQMD Rule 2202 contains a provision for parking cash-
21 out as one method to reduce single-occupant vehicle demand. That does not constitute enforceable
22 mitigation because tenants would not be required to implement cash-out parking under Rule 2202.
23 The City has failed to address feasible mitigation in its EIR. It has failed to adopt feasible mitigation
24 for a significant and unmitigated impacts. The City's findings are not supported by substantial
25 evidence.

26 27 SMART WAY

28 72. Clean Energy recommended to the City that companies operating at the WLC site be

1 required to participate in the U.S. EPA's Smart Way Program where applicable. Smart Way allows
2 shippers to track supply-chain emissions using data supplied to the SmartWay system by trucking
3 and rail companies. It allows shippers to model strategies to reduce emissions resulting from their
4 shipments. The EPA is continually upgrading the SmartWay tool. SmartWay is being integrated
5 into logistics programs. SmartWay shippers can pick carriers to meet performance targets for
6 emission reductions. Smart Way allows shippers to drive efficiency in the supply chain and
7 encourages freight carriers to adopt emission reductions. Participating companies benchmark their
8 current freight operations, identify technologies and strategies to reduce their carbon emissions, track
9 emissions reductions, and project future improvements. SmartWay participants demonstrate to
10 customers, clients, and investors that they are taking responsibility for emissions associated with
11 goods movement, are committed to corporate social responsibility and sustainable business
12 practices, and are reducing their emissions.

13 73. The City did not require any portion of the project to participate in SmartWay. The
14 City responded that trucks with access to the project site would be 2010 model year or newer and
15 would have some features SmartWay carriers may have on their trucks and further that mitigation
16 measure 4.3.6.3B would encourage tenants to become SmartWay participants. Mitigation Measure
17 4.3.6.3B provides that tenants shall be encouraged to become a SmartWay partner and to utilize
18 SmartWay 1.0 or greater carriers. The City insisted that it could not require tenants to become
19 SmartWay partners and that not all tenants would benefit from the program.

20 74. The mitigation adopted by the City is not enforceable. Providing "encouragement" to
21 tenants to become SmartWay shippers is meaningless. It does not meet the City's responsibility to
22 ensure that feasible mitigation is adopted and made enforceable. The City's findings are not
23 supported by substantial evidence. The City has failed to identify and adopt feasible mitigation for
24 significant project impacts to air quality and transportation.

25 75. Further, the City has failed to identify or disclose information that would demonstrate
26 any circumstances where it would not be appropriate for a qualified business to participate in the
27 SmartWay program. If such circumstances did exist, the City could adopt a structured compliance
28 approach that would ensure that tenants would be able to opt out of SmartWay as appropriate. This

1 could be accomplished by specifying the types of tenants that would not be required to participate or
2 by enforcing participation in SmartWay through a lease-based financial incentive.

3
4 FIRST CAUSE OF ACTION

5 (Failure to Comply with CEQA)

6 76. Petitioners incorporate by reference each and every allegation set forth above.

7 77. CEQA requires that lead agencies prepare an EIR that complies with the requirements
8 of the statute. The lead agency must also provide for public review and comment on the project and
9 associated environmental documentation. An EIR must provide sufficient environmental analysis
10 such that decision-makers can intelligently consider environmental consequences when acting on the
11 proposed project.

12 78. Respondent violated CEQA by certifying an EIR for the project that is inadequate and
13 fails to comply with CEQA and approving the project on that basis. Among other things,
14 respondent:

- 15 a. Failed to adequately disclose or analyze the project's significant environmental
16 impacts including but not limited to the project's impacts on transportation, climate
17 change, and energy;
- 18 b. Failed to provide a consistent and appropriate environmental baseline for analysis of
19 the project's environmental impacts;
- 20 c. Failed to adequately analyze the significant cumulative impacts of the project;
- 21 d. Improperly deferred impact analysis and mitigation measures;
- 22 e. Failed to discuss potentially feasible mitigation measures; and
- 23 f. Failed to adopt and make enforceable feasible mitigation for project impacts.

24 79. As a result of the foregoing defects, respondent prejudicially abused its discretion by
25 certifying an EIR that does not comply with CEQA and by approving the project in reliance thereon.
26 Accordingly, respondent's certification of the EIR and approval of the project must be set aside.

1 significant new information within the meaning of Public Resources Code section 21092.1 and
2 CEQA Guidelines section 15088.5 including, but not limited to, information about greenhouse gas
3 emissions, energy conservation, and feasible mitigation for project impacts.

4 87. Despite the availability of this significant new information, respondent failed to
5 recirculate the EIR, or any portion of the EIR. As a result of respondent's failure to recirculate the
6 EIR, the public and other public agencies were deprived of any meaningful opportunity to review
7 and comment on the project, its substantial adverse environmental consequences, and the new
8 information regarding other unanalyzed environmental effects of the project.

9 88. Respondent's failure to recirculate the EIR is not supported by substantial evidence
10 and represents a failure to proceed in the manner required by law.

11 WHEREFORE, petitioner respectfully requests the following relief:

12 1. A peremptory writ of mandate commanding that:

- 13 a. Respondent vacate and set aside its certification of the EIR, approval of the
14 project and the related approval of the Mitigation Monitoring and Reporting Plan,
15 Statement of Overriding Considerations and findings;
- 16 b. Respondent withdraw the notice of determination;
- 17 c. Respondent prepare and circulate a revised EIR for public review and comment
18 that is in compliance with the requirements of CEQA; and
- 19 d. Respondent suspend all activity pursuant to the certification of the EIR and the
20 related approvals that could result in any change or alteration to the physical
21 environment until it has taken all actions necessary to comply with CEQA.

22 2. Preliminary and permanent injunctions restraining respondent, its agents, employees,
23 contractors, consultants and all persons acting in concert with them, from undertaking any
24 construction or development, issuing any approvals or permits, or taking any other action to
25 implement in any way the approval of the project without full compliance with California law;

26 3. A declaration of the rights and duties of the parties hereto, including but not limited to
27 a declaratory judgment that prior to undertaking any action to carry out any aspect of the project,
28 respondent must prepare, circulate, and adopt a revised EIR in accordance with the requirements of

1 CEQA;

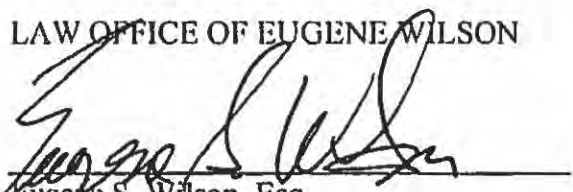
2 4. Petitioner's costs of suit and reasonable attorney fees; and

3 5. Such other relief as the court deems just and proper.

4 Dated: September 13, 2015

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LAW OFFICE OF EUGENE WILSON



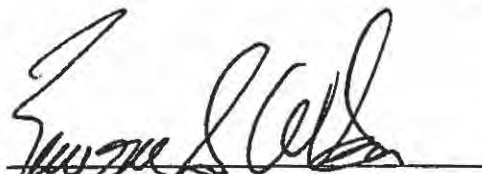
Eugene S. Wilson, Esq.
Attorney for the California Clean Energy
Committee

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VERIFICATION

I am an officer of petitioner, California Clean Energy Committee, and I am authorized to execute this verification on behalf of petitioner. I have read the foregoing petition and am familiar with its contents. The facts recited in the petition are true of my personal knowledge except as to matters stated on information and belief and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was signed on September 13, 2015, at Davis, California.


Eugene S. Wilson

C: City Attorney

15 OCT -1 PM 12:42
SUMMONS
(CITACION JUDICIAL)

SUM-100

NOTICE TO DEFENDANT: RESPONDENTS
(AVISO AL DEMANDADO):

City of Moreno Valley (continued on attached)

YOU ARE BEING SUED BY PLAINTIFF: PETITIONERS
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Center for Community Action and Environmental Justice, Center for
Biological Diversity (continued on attached)

FOR COURT USE ONLY
(SOLAMENTE PARA USO DE LA CORTE)
FILED
Superior Court Of California
County Of Riverside
09/23/2015
S.ACOSTA
BY FAX

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): County of Riverside, Superior Court
Riverside Historic Courthouse
4050 Main Street, Riverside, CA 92501

CASE NUMBER:
(Número del Caso): **RIC1511327**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
A. Yana Garcia, Earthjustice, 50 California, Suite 500, San Francisco, CA 94111

DATE: 9/22/2015 **9/23/15** Clerk, by **S. ACOSTA**, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (POS-010)).

- NOTICE TO THE PERSON SERVED:** You are served
- as an individual defendant.
 - as the person sued under the fictitious name of (specify):
 - on behalf of (specify): **CITY OF MORENO VALLEY**, a municipal corporation
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
 - by personal delivery on (date):



SHORT TITLE: CCAEJ v. City of Moreno Valley	CASE NUMBER:
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INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

Plaintiff ^{RESPONDENTS} Defendant Cross-Complainant Cross-Defendant

CITY OF MORENO VALLEY, a municipal corporation; MORENO VALLEY COMMUNITY SERVICES DISTRICT, a dependent special district of the City of Moreno Valley; and DOES 1-20 inclusive,

Respondents/Defendants,

HIGHLAND FAIRVIEW; HIGHLAND FAIRVIEW OPERATING COMPANY, a Delaware general partnership; HF PROPERTIES, a California general partnership; SUNNYMEAD PROPERTIES, a Delaware general partnership; 13451 THEODORE LLC, a California limited liability company; and DOES 1 through 20 inclusive,

Real Parties in Interest.

SHORT TITLE: CCAEJ v. City of Moreno Valley	CASE NUMBER:
--	--------------

INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

^{PETITIONER} Plaintiff
 Defendant
 Cross-Complainant
 Cross-Defendant

CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE, CENTER FOR BIOLOGICAL DIVERSITY, COALITION FOR CLEAN AIR, SIERRA CLUB, SAN BERNADINO VALLEY AUDUBON SOCIETY,

Petitioners/Plaintiffs,

CITY CLERK
MORENO VALLEY
RECEIVED

15 OCT -1 PM 12:42

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

**NOTICE OF ASSIGNMENT TO DEPARTMENT
AND STATUS CONFERENCE**

CENTER FOR COMMUNITY VS CITY OF

CASE NO. RIC1511327

This case has been assigned to the HONORABLE Judge Craig G. Riemer in Department 05 for all purposes.

The Status Conference is scheduled for:

DATE: 11/23/15
TIME: 8:30
DEPT: 05

All matters including, but not limited to, Fast Track hearings, law and motion, and settlement conference hearings shall be heard by the assigned judge until further order of the Court.

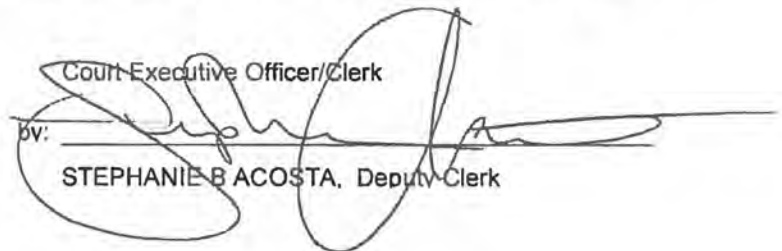
Any disqualification pursuant to CCP Section 170.6 (a) (2) shall be filed in accordance with that section.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See California Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing notice on this date, by depositing said notice as stated above.

Date: 09/23/15

Court Executive Officer/Clerk
by: 
STEPHANIE B ACOSTA, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street - 2nd Floor
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF RE-ASSIGNMENT TO DEPARTMENT FOR
ALL PURPOSES INCLUDING TRIAL

CENTER FOR COMMUNITY

VS.

CASE NO. RIC1511327

CITY OF MORENO VALLEY

TO: EARTHJUSTICE
50 CALIFORNIA STREET

SAN FRANCISCO CA 94111

This case is assigned to the Honorable Judge Sharon J. Waters in Department 10 for ALL purposes including trial.

The court address for this department is located at 4050 Main Street, Riverside, CA 92501.

Any disqualification pursuant to CCP Section 170.6(a)(2) shall be filed in accordance with that section.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See California Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing NOTICE on this date, by depositing said copy as stated above.

Date: 09/24/15

Court Executive Officer/Clerk

by: _____

RACHELL R GONZALEZ, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street - 2nd Floor
Riverside, CA 92501
www.riverside.courts.ca.gov

CLERK'S CERTIFICATE OF MAILING

CENTER FOR COMMUNITY ACTION AND ENVIRONMENT

vs.

CASE NO. RIC1511327

CITY OF MORENO VALLEY

TO: EARTHJUSTICE
50 CALIFORNIA STREET
SAN FRANCISCO CA 94111

I certify that I am currently employed by the Superior Court of California, County of Riverside and I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the attached OF RECUSAL AND on this date, by depositing said copy as stated above.

Court Executive Officer/Clerk

Dated: 09/24/15

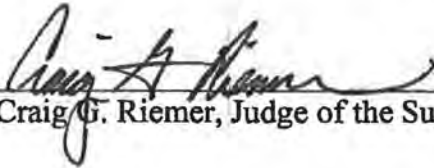
by:


RACHELLE R GONZALEZ, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

CASE TITLE: Center for Community Action v. City of Moreno Valley CASE NO.: RIC1511327 DATE: September 23, 2015	Department 5	FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE SEP 24 2015 R. Gonzalez
PROCEEDING: Recusal and Reassignment		

Because of its connection with one of the petitioners and with petitioner's counsel, the Court finds it necessary to recuse itself from hearing this matter. Accordingly, it is reassigned to Department 10 for all purposes.



Craig G. Riemer, Judge of the Superior Court

CITY CLERK
MORENO VALLEY
RECEIVED

15 OCT -1 PM 12:42

FILED

Superior Court Of California
County Of Riverside

09/23/2015

**S.ACOSTA
BY FAX**

1 STACEY P. GEIS, CA Bar No. 181444
sgeis@earthjustice.org
2 A. YANA GARCIA, CA Bar No. 282959
ygarcia@earthjustice.org
3 Earthjustice
50 California Street
4 San Francisco, CA 94111
Tel: 415-217-2000/Fax: 415-217-2040

5 ADRIANO MARTINEZ, CA Bar No. 237152
amartinez@earthjustice.org
6 OSCAR ESPINO-PADRON, CA Bar No. 290603
oespino-padron@earthjustice.org
7 Earthjustice
800 Wilshire Boulevard, Ste. 1000
8 Los Angeles, CA 90017
9 Tel: 415-217-2000/Fax: 415-217-2040

10 *Attorneys for Petitioners Center for Community Action and Environmental Justice, Center for*
11 *Biological Diversity, Coalition for Clean Air, Sierra Club, and San Bernardino Valley Audubon*
12 *Society.*

13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 IN AND FOR THE COUNTY OF RIVERSIDE

15 CENTER FOR COMMUNITY ACTION AND
16 ENVIRONMENTAL JUSTICE, CENTER FOR
17 BIOLOGICAL DIVERSITY, COALITION FOR
18 CLEAN AIR, SIERRA CLUB, SAN BERNADINO
19 VALLEY AUDUBON SOCIETY,

Petitioners/Plaintiffs,

v.

20 CITY OF MORENO VALLEY, a municipal
21 corporation; MORENO VALLEY COMMUNITY
22 SERVICES DISTRICT, a dependent special district
23 of the City of Moreno Valley; and DOES 1-20
24 inclusive,

Respondents/Defendants,

25 HIGHLAND FAIRVIEW; HIGHLAND
26 FAIRVIEW OPERATING COMPANY, a
27 Delaware general partnership; HF PROPERTIES, a
28 California general partnership; SUNNYMEAD
PROPERTIES, a Delaware general partnership;
13451 THEODORE LLC, a California limited
liability company; and DOES 1 through 20,
inclusive,

Real Parties in Interest.

Case No: **RIC1511327**

(California Environmental Quality Act)

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

[Code Civ. Proc., §§ 1085, 1094.5; CEQA
(Pub. Resources Code, §§ 21000 et seq.)]

Date: **11/23/15**

Time: **8:30 AM**

Dept: **05**

Judge: **RIEMER**

Action Filed: September 22, 2015

Trial Date: None set

I. INTRODUCTION

1
2 1. On August 19, 2015, the City Council for the City of Moreno Valley ("City") approved the
3 World Logistics Center Project ("Project") – a 2,610 acre, 40+ million square foot warehouse
4 complex that would be larger than New York's Central Park and may be the largest development of
5 its kind in the world. On the same day, the City also approved a final environmental impact report
6 ("Final EIR") that purports to, but fails to analyze the widespread impacts of the Project's
7 construction and operation.

8 2. Due to the size of the Project, the City's action to approve the World Logistics Center
9 commits approximately 10% of the City's total land mass to be developed and used solely for
10 warehouses and distribution centers indefinitely. Notably, this is not the only major warehouse and
11 distribution center that has been proposed in the City. The City is already home to one of the largest
12 shipment and distribution centers in the Inland Empire, which is also owned and operated by the
13 principal Project applicant, Highland Fairview. If the Project is constructed and operated as planned,
14 residents of the City and its surrounding areas will see a future that is dominated by large-scale
15 massive warehouse developments, increased truck shipments and traffic, and even worse air quality
16 than they already experience.

17 3. Several governmental agencies, organizations, individuals and even the County of Riverside
18 expressed deep concerns about the Project and the associated environmental review conducted by
19 the City throughout the City's decision making process. The South Coast Air Quality Management
20 District ("SCAQMD") expressed significant concerns about the "unprecedented scale" of the
21 Project. These concerns were also echoed by the California Air Resources Board ("ARB"), which
22 was just as concerned about the implications of the Project's dramatic increase in heavy-duty truck
23 traffic, and the resulting public health impacts that could not be addressed by the City's currently
24 proposed mitigation measures, set forth in the Final EIR.

25 4. As noted in the comments submitted by these individuals and entities as well as others, there
26 are myriad concerns stemming from the Project's environmental and public health impacts. The size
27 of the Project alone, with its estimated 14,000 trucks trips per day, will substantially add to the
28 existing presence of ozone, ozone precursors, and other contaminants, such as carcinogenic diesel

1 particulate matter, in an air basin that already suffers from some of the worst air quality in the nation.
2 This additional air pollution will only exacerbate the serious direct health impacts already
3 experienced by nearby residents. In addition, the Project will contribute unprecedented levels of
4 greenhouse gas (“GHG”) emissions that will add to, rather than reduce climate change impacts. As a
5 result, the Project directly conflicts with existing State GHG reduction goals. The Project will also
6 impose severe and detrimental impacts to a variety of imperiled species, habitats and other biological
7 resources. Yet, the Project’s environmental review document and the City’s environmental review
8 process have failed to adequately address these impacts.

9 5. The City has improperly analyzed this Project in a programmatic EIR, rather than in a
10 project-level EIR – a mistake that not only misconstrues the nature of the approvals and actions
11 before the City with regard to the Project, but which also precludes a necessary assessment and
12 analysis of the Project’s required mitigation. The City has also failed to require re-circulation of the
13 Final EIR in light of critical information that must be analyzed in the document, and for which the
14 Public must be allowed the opportunity to provide comments. These and many additional fatal flaws
15 in the Final EIR’s analyses have led Petitioners and their organizational members to become deeply
16 concerned by the City’s decision to approve this Project. Given the scope and significant impacts of
17 the Project, it is critical that the City comply with the requirements of the California Environmental
18 Quality Act (“CEQA”) before moving forward on a project of this scale. To date, the City has failed
19 to do so.

20 6. As a result, Petitioners bring this action on their behalf, on behalf of their members, the
21 general public, and in the public interest, to compel the City to adhere to CEQA’s critical
22 environmental review and mitigation requirements designed to maintain a high-quality, healthy
23 environment for all Californians.

24 II. PARTIES

25 7. Petitioner CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE
26 (“CCA EJ”) is a membership-based California non-profit environmental health and justice
27 organization with its primary membership in and around Riverside County. CCA EJ’s mission is to
28 bring people together to improve their social and natural environment, and to build community

1 power in order to create safer, healthier, toxic free places to live, work, learn and play in and around
2 the counties of Riverside and San Bernardino. CCAEJ has its physical offices in Jurupa Valley and
3 organizes to build leadership for community action in Jurupa Valley, Mira Loma, in the City and the
4 City of Riverside, as well as other cities throughout the counties of Riverside and San Bernardino.
5 CCAEJ has identified the City as a “community at risk” for various environmental injustices
6 including bearing a disproportionate share of the impacts from high polluting industries, heavy-duty
7 diesel truck and other mobile source emissions, and suffering other disparities created by zoning and
8 irresponsible land use planning. Accordingly, CCAEJ, together with co-petitioners to this action and
9 other environmental groups, filed extensive comments that are part of the administrative record for
10 the City’s approval of the Project and Final EIR. CCAEJ’s members are extremely concerned that
11 the Project will detrimentally impact their health and wellbeing, and the health and wellbeing of their
12 children, of their community, and the environment, and that it will detrimentally impact the area’s
13 surrounding resources. Most of CCAEJ’s members who reside in and around Riverside County and
14 around the proposed site for the Project already suffer a disproportionate burden from existing
15 stationary and mobile sources of pollution, including significant air pollution from, *inter alia*, the
16 movement of goods throughout region to existing warehouses and other large-scale storage and
17 distribution centers.

18 8. Petitioner CENTER FOR BIOLOGICAL DIVERSITY (the “Center”) is a non-profit
19 corporation with offices in San Francisco, Los Angeles, and elsewhere throughout California and the
20 United States. The Center is actively involved in environmental protection issues throughout
21 California and North America and has over 50,000 members, including many throughout California
22 and in Riverside County. The Center’s mission includes protecting and restoring habitat and
23 populations of imperiled species, reducing GHG pollution to preserve a safe climate, and protecting
24 air quality, water quality, and public health. The Center’s members and staff include individuals
25 who regularly use and intend to continue to use the areas in Riverside County and elsewhere affected
26 by the Project, including numerous members who are particularly interested in protecting the native,
27 endangered, imperiled, and sensitive species and habitats found in the San Jacinto Wildlife Area
28 (“SJWA”), who will be detrimentally impacted by the construction and operation of the Project. As

1 such, the Center has submitted extensive comments to the City, throughout its decision making
2 process regarding the Project, which are now part of the administrative record of the City's decision
3 to approve the Project and its Final EIR.

4 9. Petitioner COALITION FOR CLEAN AIR ("CCA") is a California non profit organization
5 that is dedicated to restoring clean healthy air to California by advocating for effective public policy
6 and practical business solutions. For the past 44 years CCA has made significant improvements to
7 California's air by advocating for innovative policy solutions in through both state and federal
8 legislation; encouraging the early adoption of new technologies; advising businesses on regulatory
9 compliance and clean air practices; and has empowered its allies with technical and policy expertise
10 to educate decision-makers and the public on air pollution solutions. CCA has offices in Los
11 Angeles and Sacramento, and has a direct interest in protecting and improving the quality of the air
12 throughout Southern California and throughout the State. As such, CCA submitted comments to the
13 City, during its decision making process regarding the Project, which are now part of the
14 administrative record of the City's decision to approve the Project and its Final EIR.

15 10. Petitioner SIERRA CLUB is a national nonprofit organization of approximately 600,000
16 members. Sierra Club is dedicated to exploring, enjoying, and protecting the wild places of the
17 earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to
18 educating and encouraging humanity to protect and restore the quality of the natural and human
19 environment; and to using all lawful means to carry out these objectives. Sierra Club's particular
20 interest in this case and the issues that this Project approval concerns stem from the Sierra Club's
21 local San Geronio Chapter's interests in preserving the native, endangered, imperiled and sensitive
22 species and wildlife habitats of the SJWA; decreasing rather than increasing heavy-duty and
23 medium-duty truck traffic in an already highly overburdened air basin; and ensuring that good,
24 livable and healthy jobs are brought to the area. The members of the San Geronio Chapter live,
25 work, and recreate in an around the areas that will be directly affected by the construction and
26 operation of the Project. Sierra Club submitted extensive comments to the City throughout its
27 environmental review process for the Project, which are part of the City's record of its decision to
28 approve the Project and its Final EIR.

1 11. Petitioner SAN BERNARDINO VALLEY AUDUBON SOCIETY (“SBVAS”) is a local
2 chapter of the National Audubon Society, a non-profit corporation that focuses on inspiring and
3 mobilizing people nationwide to protect hundreds of bird species and their habitats through
4 conservation, education and advocacy efforts. Founded in 1948, the SBVAS chapter area covers
5 almost all of Riverside and San Bernardino counties and includes the Project site. The SBVAS
6 chapter has approximately 2,000 members, about half of whom live in Riverside County, and whom
7 regularly engage in the bird watching, conservation, education and advocacy activities to protect bird
8 species in and around the area where the Project construction and operation will take place. The
9 SBVAS’ mission extends beyond the preservation of bird species and is to preserve imperiled and
10 sensitive habitats throughout the area for all wildlife, and to maintain the quality of life in the Inland
11 Empire. As such, the SBVAS chapter is particularly concerned with the impacts that the
12 construction and operation of the Project will have on various species including but not limited to
13 bird species in the SJWA, in and around the City and throughout Riverside and San Bernardino
14 counties.

15 12. By this action, Petitioners seek to protect the health, welfare, and economic interests of their
16 members and the general public and to enforce the City’s duties under CEQA. Petitioners’ members
17 and staff have an interest in their health and well-being, in the health and well-being of others,
18 including the residents of the City and its surrounding areas in Riverside County and in the region.
19 Petitioners also have a strong interest in conserving and protecting the environment, in protecting the
20 aesthetic and ecological integrity of the areas surrounding the Project area, and have economic
21 interests in Riverside County. Petitioners’ staff and members who live and work near the Project
22 also have a right to and a beneficial interest in the City’s compliance with CEQA. These interests
23 have been, and continue to be, threatened by the City’s decision to certify the Final EIR and approve
24 the Project in violation of CEQA. Unless the relief requested in this case is granted, Petitioners’
25 staff and members will continue to be adversely affected and irreparably injured by the City’s failure
26 to comply with CEQA.

27 ///

28 ///

1 13. Respondent CITY OF MORENO VALLEY is a municipally funded, general law City,
2 incorporated, organized and existing under the laws of the state of California since the year 1984,
3 with the capacity to sue and be sued.

4 14. Respondent CITY OF MORENO VALLEY CITY COUNCIL is the City's current 5-member
5 council.

6 15. As referred to herein, the City consists of all councils including the current five-member City
7 Council, boards, commissions and departments including the current Planning and/or Land Use
8 Department and/or the City's Planning Commission.

9 16. The City is the "lead agency" as the term is defined by CEQA, and is therefore, charged with
10 principal responsibility for carrying out or approving the Project, and for evaluating the Project's
11 environmental impacts pursuant to CEQA. (Pub. Res. Code § 21067.)

12 17. The City approved the Project and the EIR at issue in this case, and based on information and
13 belief authorized and filed or caused to be filed at least three Notices of Determination certifying the
14 EIR and approving a Statement of Overriding Considerations, the last of which was the only relevant
15 Notice of Determination for statute of limitations purposes and was posted by the County of
16 Riverside's County Clerk on August 26, 2015.

17 18. Based on information and belief, the City has also executed, approved and is a party to a
18 development agreement with Real Parties in Interest, which specifically sets forth Project-related
19 construction and operation details concerning, for example, grading and building permits, *inter alia*.

20 19. Based on information and belief the City has also issued and/or approved land use changes
21 including but not limited to General and Specific Plan amendments; it has executed and/or approved
22 pre-annexation zoning changes for land that has not yet been acquired by the project applicant but
23 that is contained within the project area, and falls within the City's jurisdiction; and it has adopted or
24 approved a tentative parcel map to be governed by both the Specific Plan and the City's
25 development agreement for the purpose of financing the Project's approved activities.

26 20. Petitioners are also informed and believe and on that basis allege that the COMMUNITY
27 SERVICES DISTRICT ("CSD") is a governmental body within the City, established pursuant to the
28 Community Services Law (Cal Gov. Code section 6100 et seq.). CSD is a dependent special district

1 of the City and the City's five-member City Council serves as its Board of Directors. CSD is
2 responsible for setting forth certain funding mechanisms and services within the territory covered by
3 the Project and subject to Project related approvals within the territory and jurisdiction of the City.

4 21. Petitioners are informed and on that basis believe that CSD's staff, contractors and
5 consultants working under its control and direction approved a resolution, which was supported by
6 the Final EIR's analysis furthering the Project.

7 22. Petitioners are informed and believe on that basis allege that HIGHLAND FAIREVIEW is a
8 Real Party in Interest in so far as it is the entity named and thereby identified on the City's public
9 notice documents relating to the Project including its August 26, 2015 Notice of Determination,
10 pursuant to Public Resources Code section 21167.6.5.

11 23. Petitioners are also informed and on that basis believe that HIGHLAND FAIRVIEW
12 OPERATING COMPANY, a Delaware general partnership, and HF PROPERTIES, a Delaware
13 general partnership ("hereinafter referred to collectively, with HIGHLAND FAIRVIEW as
14 "Highland Fairview") are also Real Parties in Interest insofar as the two are listed as owners and
15 developers of the property subject to the City's actions pursuant to its approval of the Project and the
16 Final EIR, including the City's execution of the development agreement required by the Project.

17 24. Petitioners are further informed and on that basis believe that SUNNYMEAD PROPERTIES,
18 a Delaware general partnership is also a Real Party in Interest insofar as it is listed as an owner and
19 developer of the property subject to the City's actions pursuant to its Project approvals and Project
20 related actions; and that 13451 THEODORE LLC is similarly a Real Party in Interest insofar as it is
21 also listed as an owner and developer of the property subject to the City's actions pursuant to the
22 Project, including the City's execution of the development agreement required for the Project.

23 25. Petitioners do not know the true names of Does 1 through 20 inclusive, and therefore, name
24 them by such fictitious names. Petitioners will seek leave from the Court to amend this petition to
25 reflect the true names and capacities of Does 1 through 20 inclusive once they have been
26 ascertained.

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1 **III. JURISDICTION AND VENUE**

2 26. Venue is proper in the Superior Court of California, County of Riverside under Code of Civil
3 Procedure section 395 because the City, its City Council and the proposed project are currently
4 located, or will be located, in Riverside County.

5 27. Venue is also proper in the Court pursuant to Code of Civil Procedure sections 393, 394.

6 28. The action is filed in the Riverside Historic Courthouse, 4050 Main Street, Riverside, 92501,
7 in accordance with the Standing Administrative Order – Where to File Documents – dated January 5,
8 2015, which requires all CEQA Petitions for Writ of Mandate to be filed in this Courthouse.

9 29. The court has jurisdiction over this action pursuant to Public Resources Code section 21168
10 and Code of Civil Procedure section 1094.5 (or in the alternative, pursuant to Public Resources Code
11 section 21168.5 and California Code of Civil Procedure section 1085).

12 30. This petition has been filed within 30 days of the filing and posting of the City’s last Notice
13 of Determination approving the Project and the Final EIR, which was posted by the City on its
14 website, in accordance with Public Resources Code section 21167(c) and Cal. Code Regs., tit. 14
15 (“CEQA Guidelines”) section 15112(c)(1).

16 31. Petitioners have complied with Public Resources Code section 21167.5 by prior service of a
17 letter upon the City indicating their intent to file this petition. (Attachment A.)

18 32. Petitioners have performed any and all conditions precedent to filing this instant action and
19 have exhausted any and all available administrative remedies to the extent required by law.

20 33. Petitioners do not have a plain, speedy, or adequate remedy at law because Petitioners and
21 their members will be irreparably harmed by the City’s failure to comply with CEQA’s
22 environmental review and mitigation requirements in approving the Final EIR for the Project and by
23 the ensuing environmental and public health consequences that will be caused by the construction
24 and operation of the Project, as approved.

25 **IV. STATEMENT OF FACTS**

26 **A. Community and Environmental Setting**

27 34. Moreno Valley spans a total of 51.5 square miles of the Western portion of Riverside
28 County, located in the Inland Empire. It is surrounded by the cities of Riverside and Perris, the

1 March Air Reserve Base, Lake Perris and Lake Perris State Park, the San Timoteo Badlands, and the
2 SJWA – an approximately 19,000-acre state conservation area, a portion of which shares an
3 approximately 2 mile border with the Project.

4 35. The City has a population of approximately 196,495 residents, a small fraction of the over 2
5 million people living in Riverside County who will be subject to the immediate and direct
6 environmental impacts of the Project. Not surprisingly, the City of Riverside and other surrounding
7 communities have objected to and expressed concerns about the Project but to no avail.¹

8 36. In the past several years, Riverside County and specifically the portion of the County where
9 the City is located have seen a dramatic influx of large-scale warehouse development, impacting the
10 health of its residents, and the environment.

11 37. The City is already home to one of the largest warehouses in the region – a 1.82 million
12 square foot distribution center – and, in addition to the Project, will likely see at least two other
13 large-scale warehouse developments in the very near future.

14 38. Indeed, there are two other warehouse development projects that are either currently under
15 review by the City, or which have already been approved by the City. Each of these two warehouses
16 will be approximately 1.3-1.4 million square feet in size, making the Project approximately 40 times
17 larger than other, similar developments – a fact that only highlights the Project’s potential to
18 dramatically change the environmental and demographic landscape of the area.

19 39. Notably, Riverside County and the City are over 80 miles away from the nearest ports, yet
20 much of the area’s recent development has been geared towards receiving goods from those ports,
21 for storage, sale and distribution.

22 40. As a result of increased and continued industrial growth throughout the Inland Empire,
23 including a growing concentration of storage and distribution centers throughout Riverside County
24 and in the City, vehicle and truck traffic throughout the area has increased, causing severe traffic
25 issues on Riverside County roads, and along the region’s interstate highways.

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27
28 ¹ See City of Moreno Valley demographic and historical data, available at: <http://www.moreno-valley.ca.us/community/about.shtml>

1 41. Indeed, the rapid increase in the construction and operation of warehouses, storage and
2 distribution centers in the area has been recognized as an environmental, public health and policy
3 concern by California government agencies and the state's executive officers, including the Attorney
4 General, ARB, and the California Department of Transportation. These state officers and agencies
5 are especially concerned with the lack of environmental review conducted to analyze the
6 environmental consequences of large-scale commercial sales, storage and distribution centers like
7 the Project, and the lack of consideration for the traffic, air pollution and public health impacts these
8 projects bring with them.

9 42. The part of Riverside County where the City is located falls under the jurisdiction of the
10 SCAQMD – the regional air pollution control agency with authority to regulate the “critical air
11 pollution problems” throughout the South Coast Air Basin (“Basin”), which includes all of Orange
12 County and the non-desert portions of Los Angeles, Riverside and San Bernardino counties. (Health
13 & Safety Code § 40402(b).)

14 43. SCAQMD is specifically responsible for clean air planning in and throughout the Basin,
15 pursuant to Clean Air Act. The air quality planning SCAQMD conducts is critical to meeting
16 national air pollution control standards set forth under the Clean Air Act, including National
17 Ambient Air Quality Standards (“NAAQS”) aimed at reducing the presence of contaminants of
18 concern that severely impact public health and the environment, and which contribute to climate
19 change. These contaminants include but are not limited to, nitrogen oxide (“NOx”), particulate
20 matter (“PM”), which produce soot, ground-level ozone (or “smog”) and ozone precursors that are
21 highly prevalent throughout the Basin, and specifically in the Western portion of Riverside County
22 where the City is, and where the Project will be located.

23 44. The Basin experiences complex and significant air quality issues caused by an extremely
24 high concentration of a variety of industrial activities and on-road vehicle traffic including diesel
25 emissions from heavy-duty truck traffic. As a result, the Basin exceeds federal public health
26 standards for both ozone and ozone precursors, and PM, resulting in its residents experiencing some
27 of the worst air pollution in the nation.

28 ///

1 45. The Western portion of Riverside and San Bernardino counties and the area specifically
2 surrounding the City have been identified as air pollution hot spots by air quality regulators
3 including SCAQMD for decades. This area suffers some of the worst PM concentrations in the
4 nation as a result of pollution blowing in from both Los Angeles and Orange counties, combined
5 with high concentrations of air pollution from other sources farther east that become trapped by
6 surrounding mountain ranges. The area has also experienced worsening air quality as a result of
7 increased diesel pollution from trucks used to transport goods into the region's growing warehouse
8 and other storage and distribution facilities. Notably, diesel exhaust, or diesel particulate matter
9 ("DPM"), which is highly prevalent throughout the Basin and throughout Riverside and San
10 Bernardino counties, contains dangerous levels of PM, carbon, soot and other harmful and
11 carcinogenic contaminants that can cause a host of short term acute exposure impacts and can cause
12 respiratory diseases including asthma, and lung cancer.

13 46. CalEnviroScreen, the California Environmental Protection Agency's health screening tool,
14 identifies the City and its surrounding area as having some of the State's worst concentrations of
15 ozone and PM, traffic density, and diesel truck pollution. Residents in the area suffer from high
16 rates of asthma (*e.g.* 21.4% of children and 13.8% of adults in San Bernardino County), as well as
17 other respiratory and pollution related health conditions. This includes residents in areas like Jurupa
18 Valley that are located along commonly used truck routes between the Ports of Los Angeles and
19 Long Beach and Riverside County.

20 47. Based on its 24-hour PM monitoring conducted at the Mira Loma monitor, SCAQMD has in
21 fact noted that the Basin will not attain the NAAQS for fine PM or PM 2.5 by the Basin's statutory
22 deadline set for the year 2015. The Mira Loma monitoring station is a station located along SR 60,
23 in close proximity to numerous residents.

24 48. ARB is the state agency charged with monitoring the regulatory activity of California's 35
25 local air districts including SCAQMD. ARB has determined that diesel exhaust is responsible for
26 over 70% of the health risks associated with air pollution statewide, and SCAQMD has determined
27 that DPM accounts for over 68% of the health risks associated with breathing air in and around the
28 Basin.

1 49. Consistent and continued exposure to DPM is, therefore, a serious concern for Basin
2 residents and particularly for those residing along heavy-duty truck thoroughfares. The Interstate
3 highway 15 (“I-15”) and state route 60 (“SR 60”) are just some of the thoroughfares that especially
4 impact Riverside County, City residents and residents of the areas surrounding the City. Other
5 thoroughfares such as the Interstate highway 710 (“I-710”) and highways 91 and 22, also impact
6 numerous residents living closer to the ports. These residents suffer impacts from heavy pollution
7 caused by ships and port-based pollution sources in addition to increased truck traffic to ship goods
8 out of the port area, and towards storage and distribution centers located at far distances. Residents
9 who live along these and other thoroughfares experience some of the region’s most concentrated
10 vehicle traffic and breathe some its most polluted air. Most of these residents also lack the financial
11 means to address the health problems caused by these exposures. Children, who are among the most
12 vulnerable residents, are not only subject to these avoidable health impacts, but they also experience
13 some of the highest rates of school absences, which means lost work days for parents and caregivers,
14 all of which only further impacts families and these communities.

15 50. In addition to the region’s grave DPM, ozone and other PM emission concentrations, the
16 Basin and the western portion of Riverside and San Bernardino counties, like the rest of the state, are
17 experiencing increased impacts from climate change including decreasing water supply and rainfall
18 as well as increasing temperatures, which often exacerbate air pollution concentrations.

19 51. GHG emissions contribute to local, regional and global climate change impacts and, as such,
20 they have been the subject of increased statewide regulatory efforts.

21 52. ARB, SCAQMD and the Governor’s office have all adopted rigorous goals and standards to
22 decrease the state’s GHG emissions, and to decrease the impacts from climate change. Some of these
23 targets have been codified into state law, and others have been declared by executive order, or by
24 agency action.² The crux of many of the State’s most recent efforts has been to actively limit GHG

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26 ² See e.g., Health and Safety Code § 38500 *et seq.*, the California Global Warming Solutions Act of 2006 [setting forth a
27 statewide requirement to reduce GHG emissions to 1990 levels by 2020 — a reduction of approximately 15 percent
28 below emissions expected under a “business as usual” scenario – and requiring ARB to adopt regulations to achieve the
maximum technologically feasible and cost-effective GHG emission reductions; to mitigate risks associated with climate
change; improve energy efficiency; and expand the use of renewable energy resources, cleaner transportation, and waste
reduction practices].

1 emissions as government agencies have recognized that a pure “business as usual” approach will
2 only exacerbate and accelerate the impacts of climate change, rather help to reduce and slow its
3 negative consequences.³ In setting forth its GHG reduction efforts, the State has emphasized the
4 importance of local agency involvement, and local agency commitments to reducing GHG emissions
5 through their policy and planning processes. Continued coordination between State, regional and
6 local entities is instrumental to ensuring the efficacy of the State’s policies and to enabling the State
7 to reach its reduction targets.

8 53. In addition to impacting human health and resource availability and access over time, climate
9 change also directly impacts the environment including the presence and viability of numerous
10 biological species and their habitats throughout the State and locally, within Riverside County.
11 Many native, sensitive and imperiled species and their habitats are found in and around the City, and
12 many are located in the immediate vicinity of the Project.

13 54. The SJWA’s total 19,000 square acres is home to a number of imperiled biological species,
14 many of which are native to California. Others migrating through the Pacific Flyway – a migratory
15 bird passage that extends from the southernmost tip of South America along the Pacific Ocean, to
16 the North Slope of Alaska – also rely on the SJWA en route. 9,000 acres of the SJWA is also
17 comprised of restored wetlands, which provide critical habitats to these migratory birds as well as
18 terrestrial species that may also migrate to the area in search of limited water.

19 55. Just some of the animal and plant species that are found in the SJWA include the Burrowing
20 Owl (a species of special concern, whose viability is threatened by continued urban and sub-urban
21 development); the Tri-Colored Blackbird (a bird that has received emergency protection status in
22 2014, and whose population remains in rapid decline); the California Golden Eagle; 25 species of
23 raptors and at least 65 of the 146 species of plants and animals covered by the Western Riverside
24 County Multiple Species Habitat Conservation Plan including the Los Angeles pocket mouse (a
25 threatened and State special status species native to the San Bernardino and Riverside County areas).

26
27
28 ³ See *id.*, see also, California State Executive Order B-30-15, April 29, 2015, Governor Edmund G. Brown [increasing the state’s GHG reduction target to achieve 40% below 1990 level reductions by the year 2030].

1 The SJWA is also home to three threatened and endangered plant species such as the Spreading
2 Navarretia, Threadleaved Brodiaea, and the San Jacinto Crownscale.

3 56. A significant portion of the land found in the area immediately adjacent to the approved
4 Project is used specifically for habitat and species conservation, and is comprised of the part of the
5 SJWA and reserve lands that are governed by the Western Riverside County Multiple Species
6 Habitat Conservation Plan. In addition to conservation uses, there are a few residences and small
7 family farms in the vicinity of where the Project's 2,610 acre warehouse complex will be constructed
8 and will operate.

9 **B. The Project and Its Environmental Impacts**

10 57. The Project involves construction and operation of a 40.6 million square foot warehouse
11 complex, which, according to the EIR and other approval documents will be used to provide a major
12 logistics center to accommodate an undefined "portion" of the trade volumes at the Ports of Los
13 Angeles and Long Beach.

14 58. The total area needed to effectuate the Project's construction and operations include
15 committing almost 4,000 acres within the City to indefinite future use for logistics – receiving and
16 distributing shipments by truck, conducting sales and offering storage services – or logistics support.
17 Thus, in addition to the 40.6 million square foot or 2,610 acre warehouse envisioned by the Project,
18 the land use changes involved in the Project's approvals commits approximately 10% of the City's
19 total land mass to be developed and used solely for warehouses, distribution centers, and associated
20 facilities indefinitely.

21 59. Give the size and scope of the Project, the Project approvals that have been or will be issued
22 by the City include the following: a new Specific Plan and Specific Plan Amendment; a General
23 Plan Amendment; pre-annexation zoning changes for land that has not yet been acquired by
24 Highland Fairview but that is located within the Project area and is subject to the City's jurisdiction;
25 execution of a development agreement consistent with the construction of the Project as described in
26 its notice and environmental review documents; and adoption or approval of a tentative parcel map
27 to be governed by the Project's approvals and used for the purpose of financing the Project's
28 operations.

1 60. As proposed, the Project will also involve drastic deviations from the City's current General
2 Plan designations and goals, which include, *inter alia*, (1) properly screening manufacturing and
3 industrial land uses to support mixed-use development and to avoid increased traffic flows as well as
4 disruptive construction and operation; (2) mitigating and minimizing where necessary, increased
5 traffic, noise, light and glare caused by land use activities; and (3) requiring development along
6 scenic roadways to be visually attractive.

7 61. Because the Project involves construction and operation of a warehouse complex that is so
8 vast in size, the Project will necessarily involve single-use development throughout a vast portion of
9 the City's land; increased traffic flows and will involve disruptive construction and operation as well
10 as high levels of light, noise and glare, which will also obstruct scenic views.

11 62. Because the Project will also necessarily attract increased truck and other vehicular traffic,
12 the Project will also significantly impact the air quality in the immediate vicinity of the Project, as
13 well as throughout the City, the County and the region.

14 63. Moreover, because the Project will be located at least 80 miles away from the nearest port,
15 and because the only other point of entry for goods that appear likely to be stored at the World
16 Logistics Center is the Ontario Airport, the Project is likely to cause significant impacts along all
17 roadways, thoroughfares, highways and highway corridors linking the ports of Los Angeles and
18 Long Beach to Moreno Valley.

19 64. These issues are particularly troubling because, among other things, the City has effectively
20 tied its hands with respect to requiring necessary mitigation, now and into the future. Based on the
21 terms of the City's draft development agreement that was circulated with the Final EIR documents,
22 the City will have little, if any, discretion to consider an alternative to the project. Features such as
23 building height and size, which will theoretically be determined by the new zoning, will essentially
24 be set in stone by the development agreement, such that they cannot be changed by a new City
25 Council or by initiative. Thus, in addition to approving a Final EIR that suffers from numerous
26 deficiencies as detailed below, by signing and executing the development agreement the City will
27 give up, or has already given up any phasing control for the Project – freezing into place any
28

1 assigned mitigation, or lack thereof, including fees, and the City leaves the design of the project
2 exclusively in the hands of the developers.

3 **C. The City of Moreno Valley's Project Approval and Environmental Review Process**

4 **1. *The City's Draft EIR***

5 65. On February 24, 2013, the City released a Draft EIR for a 60-day review and public comment
6 period, which closed on April 8, 2013.

7 66. Hundreds of members of the public, including Petitioners, submitted extensive comments to
8 the City regarding numerous, severe flaws contained in the Draft EIR's analyses. Such comments
9 expressed serious concerns about the Draft EIR's failure to adequately analyze or mitigate the
10 Project's significant adverse traffic impacts; its failure to adequately analyze or mitigate the
11 Project's significant and adverse impacts to air quality and human health, including the Project's
12 potentially severe DPM and GHG emissions impacts, as well as its growth inducing impacts.

13 67. Numerous public commenters, including Petitioners, also discussed at length the Draft EIR's
14 failure to adequately analyze or mitigate the Project's significant and adverse impacts on biological
15 resources including imperiled, sensitive and endangered species and habitats located in the nearby
16 SJWA. These comments specifically highlighted the Draft EIR's omission of mitigation measures
17 necessary to address the impacts that both construction and operation of the Project will have on the
18 wildlife habitats.

19 68. Commenters, including Petitioners, also submitted detailed comments regarding additional
20 legal inadequacies in the Draft EIR's analyses, including but not limited to the Draft EIR's failure to
21 provide a project-level analysis of the known Project impacts based on the specifications that would
22 be contained in the terms of the development agreement; the need for re-circulation of the EIR as a
23 result of its inadequate analyses; and the document's failure to adequately analyze a reasonable
24 range of alternatives in order to minimize the impacts from the Project's construction and operation.

25 69. These and additional comments raised during the Draft EIR comment and review period
26 were echoed and supported by dozens of other public health and environmental organizations as well
27 as government agencies such as the United States Fish and Wildlife Service, the California
28 Department of Fish and Wildlife, ARB, SCAQMD, and others.

1 **2. The City's Final EIR and Draft Statement of Overriding Consideration**

2 70. On May 1, 2015, the Final EIR was released for a 45-day comment period. At the same time,
3 the City also prepared and released for comment a draft Statement of Overriding Considerations
4 outlining the overriding economic, legal, social, technological, or other benefits of the Project that
5 allegedly outweigh the significant effects on the environment.

6 71. Given that the Final EIR failed to address the Draft EIR's deficiencies, Petitioners repeated
7 their concerns about the Final EIR's failure to, *inter alia*: adequately analyze the Project's impacts in
8 a project-level, rather than a programmatic EIR – again, in light of the project-level details contained
9 in the City's draft development agreement; its failure to adequately evaluate and mitigate the
10 Project's significant traffic, air quality, public health, and environmental impacts, with specific
11 emphasis on its failure to adequately disclose and evaluate the Project's GHG, DPM and other toxic
12 air emissions as well as its failure to adequately analyze the Project's impacts to endangered,
13 imperiled and sensitive biological species and habitats of the SJWA; its inclusion of significant new
14 information; and document's overall failure to adequately analyze a reasonable range of project
15 alternatives.

16 **i. Significant New Information and Changes**

17 72. Petitioners and other commenters, including ARB, further noted that the Final EIR's
18 inclusion of new information that was omitted from the Draft EIR or unknown at the time of its
19 publication triggered yet another reason to re-draft, re-notice and re-circulate the full Final EIR
20 pursuant to CEQA.

21 73. In particular, the new information that Petitioners and others noted in comments, was
22 included in the Final EIR but never studied, addressed, or commented on in the Draft EIR includes
23 the following:

- 24 1. A drastic increase in truck traffic, which the Final EIR's traffic analysis estimated would
25 consist of 14,000 trucks per day, many of which will be diesel trucks.
- 26 2. References to a January 2015 report regarding health risks from diesel exhaust called the
27 *Advanced Collaborative Emissions Study (ACES): Lifetime Cancer and Non-Cancer*
28 *Assessment in Rats Exposed to New-Technology Diesel Exhaust* ("HEI Study"). The Final

1 EIR relied on the HEI Study to address comments regarding the Project's health impacts
2 caused by DPM and concluded, based on the HEI study alone, that the Project's health risks
3 would be virtually eliminated by the Final EIR's proposed mitigation measures. Specifically,
4 the Final EIR included mitigation measures that relate to, but did not clearly require the
5 implementation of certain diesel control technologies.

6 3. A mistaken reliance on the use of a set of adjoining parcels of land purchased by the State
7 Department of Fish and Wildlife ("CDFW") for conservation purposes relating to the SJWA
8 habitats and species, and which are referred to throughout the Final EIR documents as
9 "CDFW parcels" as a "buffer," and included as part of the Project's "mitigation." Petitioners
10 pointed out the Final EIR's reference to such parcels as a "buffer" was an addition made to
11 the Final EIR document, which was not contained in the Draft EIR, as the Draft EIR
12 described the same parcels as part of the Project. Petitioners pointed out that this amounted
13 to significant new information because it resulted in a complete failure to analyze the true
14 impacts that the Project will have on SJWA and other surrounding areas.

15 4. A last minute change in the Project's stated objectives, which was made between the Draft
16 EIR and the Final EIR, and was significant enough to require recirculation. Specifically, the
17 Project's objectives were altered to include providing major logistics support to
18 accommodate an undefined portion of the trade volumes at the Ports of Los Angeles and
19 Long Beach – a change that was not fully analyzed or even stated in the Draft EIR, including
20 its proposed alternatives and mitigation measures.

21 74. Petitioners also pointed out that the existence of new monitoring data that refuted the Final
22 EIR's conclusions regarding the Project's air quality impacts amounted to significant new
23 information that had to be included in a revised EIR analysis of the Project's impacts. This
24 monitoring data includes the data collected from the Mira Loma Monitoring station for 24-hour PM.

25 **ii. Greenhouse Gas (GHG) Emissions Impacts**

26 75. The Final EIR also included a revised analysis of the Project's GHG emissions, which
27 Petitioners and other commenters noted impermissibly excludes a significant portion of the Project's
28 contribution to GHG's emissions. The Final EIR claims that although the Project is estimated to

1 result in almost 400,000 metric tons of GHGs annually, over three quarters of those emissions do not
2 need to be analyzed or mitigated because they are “capped” under California’s Global Warming
3 Solutions Act of 2006, known as “AB 32” – and act that requires the ARB to adopt and implement
4 cost-effective “cap and trade” measures to achieve GHG reduction benchmarks by the year 2020.

5 76. The Final EIR concluded that because mobile source emissions including emissions from
6 truck traffic are generally regulated by “AB 32” they did not need to be analyzed or mitigated in the
7 document.

8 77. Notably, AB 32 only sets forth regulatory targets through the year 2020, at which point its
9 regulatory requirements become mere consultation requirements.

10 78. Petitioners and other commenters thus pointed out that because the Project’s GHG emissions
11 would extend beyond the time-frame contemplated by AB 32, and because they dramatically exceed
12 SCAQMD’s threshold level of significance for GHG emissions, which is 10,000 metric tons – these
13 emissions, which are 400 times greater than the applicable CEQA threshold levels, could not be
14 dismissed as “capped” under the Act.

15 79. Petitioners and others further pointed out that because those emissions have real known and
16 potential impacts including impacts on climate change, they must be analyzed and mitigated
17 pursuant to CEQA, notwithstanding the existence of this law, and they noted the danger in setting
18 forth this type of analysis, which could, in essence, allow any project proponent or lead agency to
19 evade necessary CEQA review of a project’s severe environmental impacts.

20 **iii. Additional Errors and Lack of Substantial Evidence**

21 80. Finally, Petitioners pointed out that while the City included a Draft Statement of Overriding
22 Considerations (“Statement”), the Statement and its single supporting document, - a report that only
23 generally described but did not state in detail how the Project would lead to good, secure and stable
24 jobs for surrounding area residents - failed to set forth sufficient, detailed information to support the
25 Statement’s claims that the City and its residents would be benefitted by the Project, notwithstanding
26 the significant environmental and public health impacts that a Project of this size and scope brings
27 with it.

28 ///

1 87. Among other things, the City:

- 2 A. Failed to require that the Final EIR base its environmental review and analyses on an
3 accurate, stable, and finite project description. **(CEQA Guidelines §§ 15124,**
4 **15126.)** Because the Final EIR describes the Project in relation to the City's
5 adoption of the Specific Plan almost exclusively and because the Project in fact
6 involves the construction and operation of a known warehouse-complex and related
7 support structures; and because, *inter alia*, the Project description has not been stable
8 between the Draft and Final EIR document descriptions as further detailed below, the
9 City failed to provide an accurate and stable project description as required by CEQA.
- 10 B. Improperly relied upon a programmatic review of the Project's impacts, and set forth
11 mitigation measures based on such review. **(Pub. Res. Code 21068.5; CEQA**
12 **Guidelines §§ 15152(c), 15168.)** Despite the known impacts of the Project, the City
13 failed to evaluate the Project's known, project-level environmental impacts in the
14 level of detail required under CEQA. As a result, the City's analysis of the Project's
15 impacts and its assessments of the mitigation measures required to address those
16 impacts are impermissibly vague and lack the level of detail required under CEQA.
- 17 C. Failed to adequately evaluate the Project's environmental impacts, and failed to
18 adequately respond to public comments concerning a variety of significant
19 environmental effects of the Project, including the Project's direct, indirect, and
20 cumulative impacts. **(Pub. Res. Code §§ 21100(b), 21100(d), 21002.1, 21068,**
21 **21060.5, 21083(b)(2); CEQA Guidelines §§ 15126.2(a), 15130(a).)**

22 For example:

- 23 i. The Final EIR fails to adequately address the Project's GHG emissions.
24 By outright dismissing the Project's significant GHG emissions, which are
25 admittedly caused by the Project and which far exceed the SCAQMD's
26 threshold levels of significance, the Final EIR fails to comply with
27 CEQA's requirement that it "make a good-faith effort, based to the extent
28 possible on scientific, and factual data, to describe, calculate, or estimate

1 the amount of [GHG] emissions resulting from a project.” (CEQA
2 Guidelines § 15064.4 subsection (a).) The Final EIR further fails to
3 evaluate GHG emissions by failing to consider, among others,: (1) the
4 extent to which the project may increase or reduce GHG emissions; (2)
5 whether emissions exceed a threshold of significance; and (3) the extent to
6 which the project complies with regulations or requirements adopted to
7 implement statewide, regional or local plans to reduce GHG emissions.
8 (CEQA Guidelines § 15064.4(b).)

9 ii. The Final EIR fails to adequately evaluate the incremental significance of
10 the Project’s increase in GHG emissions in and around the City,
11 throughout the County, the region and the State.

12 iii. The Final EIR improperly omits a necessary, detailed analysis of the
13 Project’s potentially severe public health impacts caused by DPM and
14 other mobile source pollution including the air pollution that will be
15 caused by the Project’s estimated 14,000 truck trips per day.

16 iv. The Final EIR fails to address and analyze the significance of the
17 Project’s traffic, public health and air quality impacts, as well as its
18 biological resources and wildlife impacts in light of other, currently
19 proposed or foreseeable warehouse development projects, including but
20 not limited to, the Moreno Valley Logistics Center Project, a project that
21 is not referenced in the Final EIR as a current, ongoing or reasonably
22 foreseeable future project, let alone analyzed for cumulative impacts.

23 v. The Final EIR fails to adequately analyze the impacts that the Project’s
24 influx of 14,000 truck trips per day would have on all roadways and
25 thoroughfares, including but not limited to SR-60, Gilman Springs Road,
26 and the several overpasses and County roads surrounding the Project. The
27 Final EIR also fails to justify several of its assumptions regarding traffic
28 projections and relating to the Project’s traffic impacts. As a result, the

1 Final EIR also fails to adequately analyze traffic impacts throughout the
2 region, specifically along the additional thoroughfares connecting the
3 Ports of Los Angeles and Long Beach to the Project area.

4 vi. The Final EIR also fails to evaluate the cumulative effects of the Project's
5 traffic impacts, including but not limited to evaluating the incremental
6 significance of the Project's increase in truck and other vehicle traffic to
7 and from the Ports of Los Angeles and Long Beach, and along all of the
8 main thoroughfares that such trucks will use.

9 vii. The Final EIR fails to adequately respond to comments regarding the
10 Draft EIR's failure to evaluate the Project's growth inducing impacts
11 pursuant to CEQA. (Pub Res. Code § 21100(b)(5).)

12 viii. The Final EIR fails to properly analyze the Project's impacts to biological
13 species because it erroneously classifies the CDFW parcels as a "buffer"
14 zone, used for mitigation purposes. As a result, the Final EIR fails to
15 adequately analyze the true scope of the Project's impacts to wildlife,
16 sensitive habitats and biological species. The Final EIR also fails to
17 adequately address comments that raised serious concerns regarding the
18 Project's significant impacts to imperiled and/or endangered species which
19 were not properly analyzed and mitigated based on the City's improper
20 designation of the CDFW parcels.

21 D. Failed to re-circulate the EIR in light of significant new information. (**Pub. Res.**
22 **Code § 21092.1.**) Such significant new information includes, but is not limited to,
23 the HEI Study which the City relied upon to minimize the Project's health risks
24 caused by diesel pollution; the Final EIR's truck trips per-day estimations contained
25 in its traffic projections; the Final EIR's GHG emissions analysis including its
26 reliance on AB 32 to "cap all emissions from mobile sources; the Final EIR's re-
27 designation of the CDFW parcels as a "buffer" rather than as part of the Project area;
28 the Final EIR's change in Project's objectives; and the Final EIR's failure to consider

1 new air quality monitoring data including but not limited to the monitoring data from
2 SCAQMD's Mira Loma station monitor, *inter alia*.

3 E. Failed to consider, discuss, or adopt adequate mitigation measures to minimize the
4 Project's significant and detrimental impacts, or otherwise improperly deferred
5 mitigation necessary to minimize the Project's impacts. (**Pub. Res. Code §**
6 **21002.1(b); CEQA Guidelines §§ 15002(a)(3) 15021(a)(1), 15126.4.**) For example:

7 i. The Final EIR fails to adopt adequate mitigation measures to address
8 the Project's traffic impacts, and its impacts to air quality and public
9 health, including but not limited to the Project's DPM and GHG
10 emissions impacts caused by the Project's truck traffic and other
11 Project-related sources of emissions.

12 ii. The Final EIR also fails to adopt adequate mitigation measures to
13 address the Project's significant impacts to wildlife and biological
14 species.

15 iii. Finally, because the Final EIR erroneously basis its analyses on a
16 programmatic review of the Project while the City has set forth at least
17 some specifications contained in the City's development agreement,
18 the Final EIR precludes the application of necessary, enforceable
19 mitigation measures in violation of CEQA.

20 F. Failed to adequately analyze a reasonable range of alternatives, which would
21 substantially lessen the significant environmental effects of the Project. (**Pub. Res.**
22 **Code § 211002; CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 1512(d).**) Because
23 the Final EIR is impermissibly framed as a programmatic EIR, and because the
24 Project's objectives are impermissibly vague, the Final EIR precludes a necessary
25 analysis of reasonable alternatives to the Project and limits the City's consideration to
26 only those projects that would serve the interests of Real Parties in Interest as
27 envisioned by the development agreement and other Project-related documents, and
28

1 which will similarly provide logistics support for a vast and undefined portion of the
2 needs from the Ports of Los Angeles and Long Beach.

3 G. Failed to base its findings, including the findings made in its Statement of Overriding
4 Considerations on substantial evidence, defined as “fact[s], [] reasonable
5 assumption[s] predicated upon fact[s], or expert opinion supported by fact [which] is
6 not argument, speculation, unsubstantiated opinion or narrative, evidence that is
7 clearly inaccurate or erroneous, or evidence of social or economic impacts that do not
8 contribute to, or are not caused by, physical impacts on the environment.” (**Pub Res.
9 Code § 21080(e); CEQA Guidelines § 15384.**)

10 88. If the City, Real Parties in Interest and Does 1-20 Inclusive are not enjoined from moving
11 forward with permitting, constructing and operating the Project without an adequate Final EIR, and
12 without complying with CEQA’s environmental review and evidentiary requirements, Petitioners
13 will suffer irreparable harm from which there is no plain, speedy, or adequate remedy at law unless
14 this Court grants the requested writ of mandate.

15 89. By certifying the Final EIR and by approving a Statement of Overriding Considerations, as
16 well as other Project related documents, approvals and entitlements the City committed a prejudicial
17 abuse of discretion, failed to proceed in the manner required by law, and acted without substantial
18 evidentiary support.

19 PRAYER FOR RELIEF

20 WHEREFORE, Petitioners pray for judgment as set forth below:

21 A. For a writ of mandate or peremptory writ issued under the seal of this Court pursuant
22 to Code of Civil Procedure 1094.5 or in the alternative 1085, and directing the City to:

- 23 1. Void the Final EIR for the Project approval;
- 24 2. Set aside and withdraw all approvals of the Project including but not limited
25 to the City’s approval of the Specific Plan and General Plan amendments; its
26 approval and execution a development agreement to construct and operate the
27 Project; its approval of any pre-annexation zoning required for the project;
28 and its approval of a tentative parcel map for financing purposes relating to

1 the Project; and

- 2 3. Refrain from granting any further approvals for the Project until the City's
3 Planning Department and the City Council comply fully with the requirements
4 of CEQA.

5 B. For a writ of mandate or peremptory writ issued under the seal of this Court pursuant
6 to Code of Civil Procedure 1094.5 or in the alternative 1085, and directing all Real Parties in Interest
7 and/or Does 1-20 inclusive to:

- 8 1. Refrain from constructing and operating the Project until the City's Planning
9 Department and the City Council and other City entities comply fully with the
10 requirements of CEQA by voiding the approved Final EIR for the Project,
11 setting aside and withdrawing all approvals issued pursuant to that document's
12 review, and conducting a new environmental review process that complies
13 with CEQA's requirements as set forth herein.

14 C. For Petitioners' fees and costs, including reasonable attorneys' fees and expert
15 witness costs, as authorized by Code of Civil Procedure § 1021.5 and any other applicable
16 provisions of law.

17 D. For such other legal and equitable relief as this Court deems appropriate and just.

18 DATED: September 22, 2015

Respectfully submitted,

19 

20
21 A. Yana Garcia (State Bar No. 282959)
22 Stacey Geis (State Bar No. 181444)
23 EARTHJUSTICE
24 50 California Street Ste. 500
25 San Francisco, CA 94111
26 Tel: (415) 217-2000
27 Fax: (415) 217-2040
28 Email: ygarcia@earthjustice.org
sgeis@earthjustice.org

Adrian Martinez (State Bar No. 237152)
Oscar Espino-Padron (State Bar No. 290603)
800 Wilshire Blvd., Ste 1000

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Los Angeles, CA 90017
Tel: (415) 217-2000
Fax: (415) 217-2040
Email: amartinez@earthjustice.org
oespino-padron@earthjustice.org

*Attorneys for Petitioners CCAEJ, the Center, CCA,
Sierra Club and SBVAS*

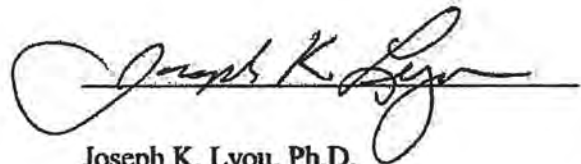
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VERIFICATION

I, Joseph K. Lyou, Ph.D., hereby declare:

I am the President and Chief Executive Officer of the Coalition for Clean Air, a California non-profit corporation with offices in Los Angeles and Sacramento, California. The facts alleged in the above Petition are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this 21st day of September 2015 at Los Angeles, California.


Joseph K. Lyou, Ph.D.

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VERIFICATION

MARY ANN RUTZ
I, _____, hereby declare:

I am a CHAPTER
CHAIR at the Sierra Club, a national non-profit corporation with offices in San Francisco and Los Angeles, California and elsewhere in the United States. The facts alleged in the above Petition are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this ___ day of September 2015 at [San Francisco/Los Angeles California.

M A R

9-22-2015

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VERIFICATION

I, Drew Feldmann, hereby declare:

I am a board member and Conservation Chair at the San Bernardino Valley Audubon Society, a non-profit corporation with offices in Redlands, California. The facts alleged in the above Petition are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this 21st day of September 2015 at Montclair, California.



Drew Feldmann

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VERIFICATION

I, Penny Newman, hereby declare:

I am the Executive Director at the Center for Community Action and Environmental Justice, a non-profit corporation with offices in Jurupa Valley. The facts alleged in the above Petition are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this 21st day of September 2015 at San Francisco, California.



Penny Newman

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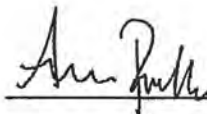
VERIFICATION

I, Aruna Prabhala, hereby declare:

I am a Staff Attorney of the Strategic Litigation Group at the Center for Biological Diversity,
a non-profit corporation with offices in San Francisco, California and elsewhere in the United States.

The facts alleged in the above Petition are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is
true and correct and that this verification is executed on this 22 day of September 2015 at San
Francisco, California.



Aruna Prabhala

ATTACHMENT A



EARTHJUSTICE

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, D.C. INTERNATIONAL

VIA: U.S. FIRST-CLASS MAIL
ELECTRONIC MAIL (cityclerk@moval.org)

September 14, 2015

City of Moreno Valley
Attn: Mayor Jesse L. Molina and City Council
Moreno Valley City Hall
14177 Frederick Street
P.O. Box 88005
Moreno Valley, California 92552

**Re: California Public Resources Code section 21167.5 Notice of Intent to File CEQA
Petition Challenging the Certification of the Final Environmental Impact Report for
the World Logistics Center (State Clearinghouse No. 2012021045)**

Dear City Clerk Jane Halstead:

Please be advised that as required under California Public Resources Code section 21167.5, the Center for Community Action and Environmental Justice, the Center for Biological Diversity, the Sierra Club, and the San Bernardino Valley Audubon Society (collectively "Petitioners") hereby provide notice through this correspondence of their intent to file a petition under the California Environmental Quality Act ("CEQA") against the City of Moreno Valley ("Respondent") and Highland Fairview ("Real Party in Interest"). (*See* Pub. Res. Code § 21000, *et seq.*)

Petitioners seek to challenge the Final Environmental Impact Report ("FEIR") for the World Logistics Center (State Clearinghouse No. 2012021045) that was certified on August 19, 2015 by Respondent. Petitioners will file this CEQA challenge based on the FEIR's failure to comply with CEQA requirements, including but not limited to the failure to adequately analyze environmental impacts, the failure to disclose or accurately evaluate greenhouse gas emissions impacts, and the failure to adequately consider cumulatively considerable impacts. For these and other reasons, the certified FEIR is procedurally and substantively defective.

Among other relief, Petitioners will request that the Court issue a writ of mandate to vacate the FEIR certification and to compel the recirculation and preparation of an environmental impact report that conforms to CEQA requirements. Additionally, Petitioners will seek costs and attorney's fees. (*See* Cal. Civ. Pro. § 1021.5.)

CALIFORNIA OFFICE 50 CALIFORNIA STREET, SUITE 300 SAN FRANCISCO, CA 94111

T: 415.217.2000 F: 415.217.2040 CAOFFICE@EARTHJUSTICE.ORG WWW.EARTHJUSTICE.ORG

Based on the reasons outlined above, Respondent should immediately vacate the certification of the FEIR and engage in an appropriate CEQA review process that results in an adequate environmental impact report.

Most respectfully,



Oscar Espino-Padron
Attorneys for Petitioners

cc: Moreno Valley Community Development Department
Attn: Mark Gross
14177 Frederick Street
P.O. Box 88005
Moreno Valley, California 92552

Steve Quintanilla, Interim City Attorney
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552

PROOF OF SERVICE

I am a citizen of the United States of America and a resident of the City and County of San Francisco; I am over the age of 18 years and not a party to the within entitled action; my business address is 50 California Street, Suite 500, San Francisco, California.

I hereby certify that on September 14, 2015, I served by U.S. first class mail and by electronic mail one true copy of the following document:

- Notice of Intent to File CEQA Petition Challenging the Certification of the Final Environmental Impact Report for the World Logistics Center

on the parties listed below:

City of Moreno Valley
Attn: Mayor Jesse L. Molina and City Council
Moreno Valley City Hall
P.O. Box 8805
Moreno Valley, CA 92552
cityclerk@moval.org

Moreno Valley Community Development
Department
Attn: Mark Gross
14177 Frederick Street
P.O. Box 88005
Moreno Valley, California 92552

Steve Quintanilla, Interim City Attorney
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552

I certify under penalty of perjury that the foregoing is true and correct. Executed on September 14, 2015 in San Francisco, California.


Rikki Weber

CITY CLERK
MORENO VALLEY
RECEIVED

FILED

15 SEP 31 PM 12:42

Superior Court Of California
County Of Riverside
09/29/2015

R. LOUPE
BY FAX

1 STACEY P. GEIS, CA Bar No. 181444
sgeis@earthjustice.org
2 A. YANA GARCIA, CA Bar No. 282959
ygarcia@earthjustice.org
3 Earthjustice
50 California Street, Ste. 500
4 San Francisco, CA 94111
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5 ADRIANO L. MARTINEZ, CA Bar No. 237152
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6 OSCAR ESPINO-PADRON, CA Bar No. 290603
oespino-padron@earthjustice.org
7 Earthjustice
800 Wilshire Boulevard, Ste. 1000
8 Los Angeles, CA 90017
9 Tel: 415-217-2000/Fax: 415-217-2040

10 *Attorneys for Petitioners Center for Community*
Action and Environmental Justice, Center for
11 *Biological Diversity, Coalition for Clean Air,*
Sierra Club, and San Bernardino Valley Audubon Society.
12

13
14 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF RIVERSIDE

15 CENTER FOR COMMUNITY ACTION AND
ENVIRONMENTAL JUSTICE, CENTER FOR
16 BIOLOGICAL DIVERSITY, COALITION FOR
CLEAN AIR, SIERRA CLUB, SAN
17 BERNARDINO VALLEY AUDUBON
SOCIETY,

18 Petitioners/Plaintiffs,

19 v.

20 CITY OF MORENO VALLEY, a municipal
corporation; MORENO VALLEY COMMUNITY
21 SERVICES DISTRICT, a dependent special
district of the City of Moreno Valley; and DOES
22 1-20 inclusive,

23 Respondents/Defendants,

24 HIGHLAND FAIRVIEW; HIGHLAND
FAIRVIEW OPERATING COMPANY, a
25 Delaware general partnership; HF PROPERTIES,
a California general partnership; SUNNYMEAD
26 PROPERTIES, a Delaware general partnership;
13451 THEODORE LLC, a California limited
27 liability company; and ROES 21-40 inclusive

28 Real Parties in Interest.

Case No: RIC1511327

(California Environmental Quality Act)

**PETITIONERS' NOTICE OF INTENT
TO PREPARE THE RECORD**

[Public Resources Code § 21167.6(b)]

Dept: 10
Judge: Waters

Action Filed: September 23, 2015
Trial Date: None set

1 **TO THE CITY OF MORENO VALLEY, THE MORENO VALLEY COMMUNITY**
2 **SERVICES DISTRICT, AND ALL INTERESTED PARTIES AND THEIR ATTORNEY(S)**
3 **OF RECORD, IF ANY:**

4 PLEASE TAKE NOTICE THAT pursuant to California Public Resources Code section
5 21167.6(b), Petitioners/Plaintiffs CENTER FOR COMMUNITY ACTION AND
6 ENVIRONMENTAL JUSTICE, CENTER FOR BIOLOGICAL DIVERSITY, COALITION FOR
7 CLEAN AIR, SIERRA CLUB, and the SAN BERNARDINO VALLEY AUDUBON SOCIETY, all
8 California non-profit corporations (hereinafter referred to collectively as "Petitioners"), hereby
9 notify all parties that they will prepare the record of proceedings ("Administrative Record") for the
10 above-captioned action relating to the World Logistics Center ("Project"), and the
11 Respondents'/Defendants', CITY OF MORENO VALLEY ("City"), MORENO VALLEY
12 COMMUNITY SERVICES DISTRICT, a dependent special district of the City, and DOES 1-20
13 inclusive, unlawful approval of the Project as well as their unlawful approval and certification of the
14 Final Environmental Impact Report for the Project.

15 DATED: September 29, 2015

Respectfully submitted,

16
17 

18 A. Yana Garcia (State Bar No. 282959)
19 Stacey Geis (State Bar No. 181444)
20 EARTHJUSTICE
21 50 California Street, Ste. 500
22 San Francisco, CA 94111
23 Tel: (415) 217-2000
24 Fax: (415) 217-2040
25 Email: ygarcia@earthjustice.org;
26 sgeis@earthjustice.org
27 Adriano L. Martinez (State Bar No. 237152)
28 Oscar Espino-Padron (State Bar No. 290603)
800 Wilshire Blvd., Ste 1000
Los Angeles, CA 90017
Tel: (415) 217-2000
Fax: (415) 217-2040
Email: amartinez@earthjustice.org
oespino-padron@earthjustice.org
Attorneys for Petitioners

CITY CLERK
MORENO VALLEY
RECEIVED

15 OCT -1 PM 12:42

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

- BANNING 311 E. Ramsey St., Banning, CA 92220
- BLYTHE 265 N. Broadway, Blythe, CA 92225
- HEMET 880 N. State St., Hemet, CA 92543
- MORENO VALLEY 13800 Heacock St., Ste. D201, Moreno Valley, CA 92553

- MURRIETA 30755-D Auld Rd., Suite 1226, Murrieta, CA 92563
- PALM SPRINGS 3255 E. Tahquitz Canyon Way, Palm Springs, CA 92262
- RIVERSIDE 4050 Main St., Riverside, CA 92501
- TEMECULA 41002 County Center Dr., #100, Temecula, CA 92591

RI-030

<p><small>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address)</small> Stacey P. Geis (CA SB #181444); A. Yana Garcia (CA SB #282959) Adriano Martinez (CA SB #237152); Oscar Espino-Padron (CA SB #290603) Earthjustice, 50 California Street, Suite 500 San Francisco, CA 94111</p> <p>TELEPHONE NO. 415-217-2000 FAX NO. (Optional) 415-217-2040</p> <p>E-MAIL ADDRESS (Optional): <small>ATTORNEY FOR (Name):</small> Petitioners, Cntr. for Community Action and Enviro. Justice et a</p> <p>PLAINTIFF/PETITIONER: Center for Community Action and Enviro. Justice, et al</p> <p>DEFENDANT/RESPONDENT: City of Moreno Valley, et al.</p>	<p><small>FOR COURT USE ONLY</small></p> <p>FILED</p> <p>Superior Court Of California County Of Riverside 09/23/2015 S.ACOSTA BY FAX</p> <p>CASE NUMBER: RIC1511327</p>
CERTIFICATE OF COUNSEL	

The undersigned certifies that this matter should be tried or heard in the court identified above for the reasons specified below:

- The action arose in the zip code of: 92552
- The action concerns real property located in the zip code of: _____
- The Defendant resides in the zip code of: _____

For more information on where actions should be filed in the Riverside County Superior Courts, please refer to Local Rule 1.0015 at www.riverside.courts.ca.gov.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date September 22, 2015

A. Yana Garcia (CA SB #282959)
(TYPE OR PRINT NAME OF ATTORNEY PARTY MAKING DECLARATION)

▶  (SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Stacey P. Geis (CA SB #181444); A. Yana Garcia (CA SB #282959) Adriano Martinez (CA SB #237152); Oscar Espino-Padron (CA SB #290603) Earthjustice, 50 California Street, Suite 500 San Francisco, CA 94111 TELEPHONE NO: 415-217-2000 FAX NO: 415-217-2040 ATTORNEY FOR (Name) Center for Community Action and Environmental Justice		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside STREET ADDRESS: 4050 Main Street MAILING ADDRESS: 4050 Main Street CITY AND ZIP CODE: Riverside 92501 BRANCH NAME: Riverside Historic Courthouse		
CASE NAME: Center for Community Action and Environmental Justice, et al v. City of Moreno Valley, et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: RIC1511327 JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input checked="" type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): **One - Violations of CEQA, CCP § 1085, or § 1094.5; Pub. Res. § 21000 et s**
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 9/22/2015

A. Yana Garcia (CA SB # 282959)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) *(if the case involves an uninsured motorist claim, subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (not asbestos or toxic/environmental) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Promises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)
Defamation (e.g., slander, libel) (13)
Fraud (18)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (not medical or legal)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (not unlawful detainer or wrongful eviction)
Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (not provisionally complex) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (non-domestic relations)
Sister State Judgment
Administrative Agency Award (not unpaid taxes)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (not specified above) (42)
Declaratory Relief Only
Injunctive Relief Only (non-harassment)
Mechanics Lien
Other Commercial Complaint Case (non-tort/non-complex)
Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (not specified above) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition



SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
www.riverside.courts.ca.gov

Self-represented parties: <http://riverside.courts.ca.gov/selfhelp/self-help.shtml>

**ALTERNATIVE DISPUTE RESOLUTION (ADR) –
INFORMATION PACKAGE**

(California Rules of Court, Rule 3.221; Local Rule, Title 3, Division 2)

***** THE PLAINTIFF MUST SERVE THIS INFORMATION PACKAGE
ON EACH PARTY WITH THE COMPLAINT. *****

CITY CLERK
MORENO VALLEY
RECEIVED

15 OCT 11 PM 12:42

What is ADR?

Alternative Dispute Resolution (ADR) is a way of solving legal disputes without going to trial. The main types are mediation, arbitration and settlement conferences.

Advantages of ADR:

- Faster: ADR can be done in a 1-day session within months after filing the complaint.
- Less expensive: Parties can save court costs and attorneys' and witness fees.
- More control: Parties choose their ADR process and provider.
- Less stressful: ADR is done informally in private offices, not public courtrooms.

Disadvantages of ADR:

- No public trial: Parties do not get a decision by a judge or jury.
- Costs: Parties may have to pay for both ADR and litigation.

Main Types of ADR:

Mediation: In mediation, the mediator listens to each person's concerns, helps them evaluate the strengths and weaknesses of their case, and works with them to create a settlement agreement that is acceptable to everyone. If the parties do not wish to settle the case, they go to trial.

Mediation may be appropriate when the parties:

- want to work out a solution but need help from a neutral person; or
- have communication problems or strong emotions that interfere with resolution; or
- have a continuing business or personal relationship.

Mediation is not appropriate when the parties:

- want their public "day in court" or a judicial determination on points of law or fact;
- lack equal bargaining power or have a history of physical/emotional abuse.

Arbitration: Arbitration is less formal than trial, but like trial, the parties present evidence and arguments to the person who decides the outcome. In "binding" arbitration the arbitrator's decision is final; there is no right to trial. In "non-binding" arbitration, any party can request a trial after the arbitrator's decision. The court's mandatory Judicial Arbitration program is non-binding.

Arbitration may be appropriate when the parties:

- ⌘ want to avoid trial, but still want a neutral person to decide the outcome of the case.

Arbitration is not appropriate when the parties:

- ⌘ do not want to risk going through both arbitration and trial (Judicial Arbitration)
- ⌘ do not want to give up their right to trial (binding arbitration)

Settlement Conferences: Settlement conferences are similar to mediation, but the settlement officer usually tries to negotiate an agreement by giving strong opinions about the strengths and weaknesses of the case, its monetary value, and the probable outcome at trial. Settlement conferences often involve attorneys more than the parties and often take place close to the trial date.

RIVERSIDE COUNTY SUPERIOR COURT ADR REQUIREMENTS

ADR Information and forms are posted on the ADR website: <http://riverside.courts.ca.gov/adr/adr.shtml>

General Policy:

Parties in most general civil cases are expected to participate in an ADR process before requesting a trial date and to participate in a settlement conference before trial. (Local Rule 3200)

Court-Ordered ADR:

Certain cases valued at under \$50,000 may be ordered to judicial arbitration or mediation. This order is usually made at the Case Management Conference. See the "Court-Ordered Mediation Information Sheet" on the ADR website for more information.

Private ADR (for cases not ordered to arbitration or mediation):

Parties schedule and pay for their ADR process without Court involvement. Parties may schedule private ADR at any time; there is no need to wait until the Case Management Conference. See the "Private Mediation Information Sheet" on the ADR website for more information.

BEFORE THE CASE MANAGEMENT CONFERENCE (CMC), ALL PARTIES MUST:

1. Discuss ADR with all parties at least 30 days before the CMC. Discuss:
 - ⌘ Your preferences for mediation or arbitration.
 - ⌘ Your schedule for discovery (getting the information you need) to make good decisions about settling the case at mediation or presenting your case at a trial or arbitration.
2. File the attached "Stipulation for ADR" along with the Case Management Statement, if all parties can agree.
3. Be prepared to tell the judge your preference for mediation or arbitration and the date when you could complete it.

(Local Rule 3218)

RIVERSIDE COUNTY ADR PROVIDERS INCLUDE:

- ⌘ The Court's Civil Mediation Panel (available for both Court-Ordered Mediation and Private Mediation). See <http://adr.riverside.courts.ca.gov/adr/civil/panelist.php> or ask for the list in the civil clerk's office, attorney window.
- ⌘ Riverside County ADR providers funded by DRPA (Dispute Resolution Program Act):
Dispute Resolution Service (DRS) Riverside County Bar Association: (951) 682-1015
Dispute Resolution Center, Community Action Partnership (CAP): (951) 955-4900

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE <input type="checkbox"/> Banning - 311 E. Ramsey Street, Banning, CA 92220 <input type="checkbox"/> Hemet - 880 N. State Street, Hemet, CA 92543 <input type="checkbox"/> Indio - 46-200 Oasis Street, Indio, CA 92201 <input type="checkbox"/> Riverside - 4050 Main Street, Riverside, CA 92501 <input type="checkbox"/> Temecula - 41002 County Center Drive, Bldg. C - Suite 100, Temecula, CA 92591	
PLAINTIFF(S): _____ DEFENDANT(S): _____	CASE NUMBER: _____
STIPULATION FOR ALTERNATIVE DISPUTE RESOLUTION (ADR) (CRC 3.2221; Local Rule, Title 3, Division 2)	CASE MANAGEMENT CONFERENCE DATE(S): _____

Court-Ordered ADR:

Eligibility for Court-Ordered Mediation or Judicial Arbitration will be determined at the Case Management Conference. If eligible, the parties agree to participate in:

- Mediation Judicial Arbitration (non-binding)

Private ADR:

If the case is not eligible for Court-Ordered Mediation or Judicial Arbitration, the parties agree to participate in the following ADR process, which they will arrange and pay for without court involvement:

- Mediation Judicial Arbitration (non-binding)
 Binding Arbitration Other (describe): _____

Proposed date to complete ADR: _____

SUBMIT THIS FORM ALONG WITH THE CASE MANAGEMENT STATEMENT.

PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE
PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE
PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE
PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE
<input type="checkbox"/> Additional signature(s) attached		

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

C. Mundo

NOTICE TO DEFENDANTS/RESPONDENTS:

(AVISO AL DEMANDADO):

CITY OF MORENO VALLEY, a municipal corporation; MORENO VALLEY COMMUNITY SERVICES DISTRICT, a dependent special district of the City of Moreno Valley; and DOES 1-20, inclusive

YOU ARE BEING SUED BY PLAINTIFF/PETITIONER:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

COUNTY OF RIVERSIDE, a political subdivision of the State of California

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of the State of California, County of Riverside
4050 Main Street
Riverside, CA 92501

CASE NUMBER
(Número de Caso)

RIC 1511180

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Michelle Ouellette, Best Best & Krieger LLP
3390 University Avenue, 5th Floor, P. O. Box 1028
Riverside, CA 92502-1028

C. MUNDO

DATE:

(Fecha)

SEP 18 2015

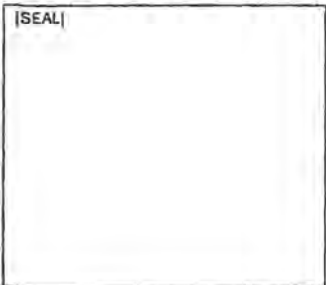
Clerk, by

(Secretario)

15 Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):
under:

<input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
- by personal delivery on (date):

15 SEP 18 PM 1:24
CLERK
MORENO VALLEY

COPY

SHORT TITLE

County of Riverside v City of Moreno Valley

INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons
- If this attachment is used insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box Use a separate page for each type of party)

Plaintiff Defendant Cross-Complainant Cross-Defendant

Real Parties in Interest

Highland Fairview,
 Highland Fairview Operating Company, a Delaware general partnership,
 HF Properties, a California general partnership;
 Sunnymead Properties, a Delaware general partnership,
 Theodore Properties Partners, a Delaware general partnership,
 13451 Theodore, LLC, a California limited liability company,
 HL Property Partners, a Delaware general partnership,
 and ROES 21 - 40 inclusive



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) Michelle Ouellette, SBN 145191; Charity Schiller, SBN 234291 Best Best & Krieger LLP 3390 University Avenue, 5th Floor; P. O. Box 1028 Riverside, CA 92502-1028 TELEPHONE NO (951) 686-1450 FAX NO (951) 686-3083 ATTORNEY FOR (Name) Petitioner/Plaintiff County of Riverside	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE STREET ADDRESS 4050 Main Street MAILING ADDRESS CITY AND ZIP CODE Riverside, CA 92501 BRANCH NAME	
CASE NAME: County of Riverside v. City of Moreno Valley, et al.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
	CASE NUMBER (CEQA) RIC 1511180 JUDGE DEPT

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input checked="" type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	---	--

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): 2
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: September 18, 2015
 Michelle Ouellette/Charity Schiller
 (TYPE OR PRINT NAME) ▶  (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

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To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

<p>Auto Tort</p> <p>Auto (22)—Personal Injury/Property Damage/Wrongful Death</p> <p>Uninsured Motorist (46) (<i>if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto</i>)</p> <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <p>Asbestos (04)</p> <p>Asbestos Property Damage</p> <p>Asbestos Personal Injury/Wrongful Death</p> <p>Product Liability (<i>not asbestos or toxic/environmental</i>) (24)</p> <p>Medical Malpractice (45)</p> <p>Medical Malpractice—Physicians & Surgeons</p> <p>Other Professional Health Care Malpractice</p> <p>Other PI/PD/WD (23)</p> <p>Premises Liability (e.g., slip and fall)</p> <p>Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)</p> <p>Intentional Infliction of Emotional Distress</p> <p>Negligent Infliction of Emotional Distress</p> <p>Other PI/PD/WD</p> <p>Non-PI/PD/WD (Other) Tort</p> <p>Business Tort/Unfair Business Practice (07)</p> <p>Civil Rights (e.g., discrimination, false arrest) (<i>not civil harassment</i>) (08)</p> <p>Defamation (e.g., slander, libel) (13)</p> <p>Fraud (16)</p> <p>Intellectual Property (19)</p> <p>Professional Negligence (25)</p> <p>Legal Malpractice</p> <p>Other Professional Malpractice (<i>not medical or legal</i>)</p> <p>Other Non-PI/PD/WD Tort (35)</p> <p>Employment</p> <p>Wrongful Termination (36) Other Employment (15)</p>	<p>Contract</p> <p>Breach of Contract/Warranty (06)</p> <p>Breach of Rental/Lease</p> <p>Contract (<i>not unlawful detainer or wrongful eviction</i>)</p> <p>Contract/Warranty Breach—Seller Plaintiff (<i>not fraud or negligence</i>)</p> <p>Negligent Breach of Contract/Warranty</p> <p>Other Breach of Contract/Warranty</p> <p>Collections (e.g., money owed, open book accounts) (09)</p> <p>Collection Case—Seller Plaintiff</p> <p>Other Promissory Note/Collections Case</p> <p>Insurance Coverage (<i>not provisionally complex</i>) (18)</p> <p>Auto Subrogation</p> <p>Other Coverage</p> <p>Other Contract (37)</p> <p>Contractual Fraud</p> <p>Other Contract Dispute</p> <p>Real Property</p> <p>Eminent Domain/Inverse Condemnation (14)</p> <p>Wrongful Eviction (33)</p> <p>Other Real Property (e.g., quiet title) (26)</p> <p>Writ of Possession of Real Property</p> <p>Mortgage Foreclosure</p> <p>Quiet Title</p> <p>Other Real Property (<i>not eminent domain, landlord/tenant, or foreclosure</i>)</p> <p>Unlawful Detainer</p> <p>Commercial (31)</p> <p>Residential (32)</p> <p>Drugs (38) (<i>if the case involves illegal drugs, check this item, otherwise report as Commercial or Residential</i>)</p> <p>Judicial Review</p> <p>Asset Forfeiture (05)</p> <p>Petition Re Arbitration Award (11)</p> <p>Writ of Mandate (02)</p> <p>Writ—Administrative Mandamus</p> <p>Writ—Mandamus on Limited Court Case Matter</p> <p>Writ—Other Limited Court Case Review</p> <p>Other Judicial Review (39)</p> <p>Review of Health Officer Order</p> <p>Notice of Appeal—Labor Commissioner Appeals</p>	<p>Provisionally Complex Civil Litigation (Cal Rules of Court Rules 3.400–3.403)</p> <p>Antitrust/Trade Regulation (03)</p> <p>Construction Defect (10)</p> <p>Claims Involving Mass Tort (40)</p> <p>Securities Litigation (28)</p> <p>Environmental/Toxic Tort (30)</p> <p>Insurance Coverage Claims (<i>arising from provisionally complex case type listed above</i>) (41)</p> <p>Enforcement of Judgment</p> <p>Enforcement of Judgment (20)</p> <p>Abstract of Judgment (Out of County)</p> <p>Confession of Judgment (<i>non-domestic relations</i>)</p> <p>Sister State Judgment</p> <p>Administrative Agency Award (<i>not unpaid taxes</i>)</p> <p>Petition/Certification of Entry of Judgment on Unpaid Taxes</p> <p>Other Enforcement of Judgment Case</p> <p>Miscellaneous Civil Complaint</p> <p>RICO (27)</p> <p>Other Complaint (<i>not specified above</i>) (42)</p> <p>Declaratory Relief Only</p> <p>Injunctive Relief Only (<i>non-harassment</i>)</p> <p>Mechanics Lien</p> <p>Other Commercial Complaint Case (<i>non-tort/non-complex</i>)</p> <p>Other Civil Complaint (<i>non-tort/non-complex</i>)</p> <p>Miscellaneous Civil Petition</p> <p>Partnership and Corporate Governance (21)</p> <p>Other Petition (<i>not specified above</i>) (43)</p> <p>Civil Harassment</p> <p>Workplace Violence</p> <p>Elder/Dependent Adult Abuse</p> <p>Election Contest</p> <p>Petition for Name Change</p> <p>Petition for Relief From Late Claim</p> <p>Other Civil Petition</p>
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

- BANNING 311 E. Ramsey St., Banning, CA 92220
- BLYTHE 265 N. Broadway, Blythe, CA 92225
- HEMET 880 N. State St., Hemet, CA 92543
- MORENO VALLEY 13800 Heacock St., Ste. D201, Moreno Valley, CA 92553

- MURRIETA 30755-D Auld Rd., Suite 1226, Murrieta, CA 92563
- PALM SPRINGS 3255 E. Tahquitz Canyon Way, Palm Springs, CA 92262
- RIVERSIDE 4050 Main St., Riverside, CA 92501
- TEMECULA 41002 County Center Dr., #100, Temecula, CA 92591

RI-030

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address) Michelle Ouellette, Bar No. 145191 Best Best & Krieger LLP 3390 University Ave., 5th Floor Riverside, CA 92501 TELEPHONE NO (951) 686-1450 FAX NO (Optional) E-MAIL ADDRESS (Optional) ATTORNEY FOR (Name) Petitioner/Plaintiff County of Riverside	FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE SEP 18 2015 <u>C. Mundo</u> CASE NUMBER: RIC 1511 1 80
PLAINTIFF/PETITIONER: County of Riverside DEFENDANT/RESPONDENT: City of Moreno Valley, et al.	
CERTIFICATE OF COUNSEL	

The undersigned certifies that this matter should be tried or heard in the court identified above for the reasons specified below:

- The action arose in the zip code of: 92552
- The action concerns real property located in the zip code of: _____
- The Defendant resides in the zip code of: _____

For more information on where actions should be filed in the Riverside County Superior Courts, please refer to Local Rule 1.0015 at www.riverside.courts.ca.gov.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date September 18, 2015

Michelle Ouellette
(TYPE OR PRINT NAME OF ATTORNEY PARTY MAKING DECLARATION)


(SIGNATURE)

COPY

1 THEODORE PROPERTIES PARTNERS, a
2 Delaware general partnership;
3 13451 THEODORE, LLC, a California limited
4 liability company;
5 HL PROPERTY PARTNERS, a Delaware
6 general partnership; and
7 ROES 21 - 40 inclusive,

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28
Real Parties in Interest.

1 proceedings for the expansion of the CSD's boundary in conjunction with the related annexation
2 requested by the City Council.

3 5. As detailed below, Moreno Valley failed to properly exercise its duties as lead
4 agency under CEQA and California Code of Civil Procedure, title 14, section 15000 et seq.
5 (hereinafter, CEQA Guidelines), resulting in Moreno Valley's improper approval of the Project,
6 without adequate or proper environmental review under CEQA. Through this lawsuit, the County
7 seeks to enforce the provisions of CEQA as they apply to the Project. The maintenance and
8 prosecution of this action will confer a substantial benefit on the public by ensuring full
9 compliance with the requirements of CEQA, a public-disclosure statute, and by protecting the
10 public from the unanalyzed potential environmental harms, unmitigated environmental impacts
11 and lack of adoption of all feasible mitigation measures as alleged in this Petition and Complaint.

12 THE PARTIES

13 6. Petitioner and Plaintiff County, is, and at all relevant times was a political
14 subdivision of the State of California. Among other responsibilities, the County is responsible for
15 planning and governing land use in Riverside County in a manner that protects the public health,
16 safety, welfare, and environment of its residents. Through one of the County's departments, the
17 Transportation and Land Management Agency, the County provides planning, environmental,
18 building and other services.

19 7. Respondent and Defendant Moreno Valley is a general law city organized and
20 existing under and by virtue of the laws of the State of California, and is situated in the County of
21 Riverside. Moreno Valley is authorized and required by law to hold public hearings, to determine
22 whether CEQA applies to development within its jurisdiction, to determine the adequacy of and
23 adopt or certify environmental documents prepared pursuant to CEQA, and to determine whether
24 a project is compatible with the objectives, policies, general land uses, and programs specified in
25 the General Plan, Moreno Valley, its staff, and contractors and consultants working under its
26 control and direction prepared the EIR for the Project, and its City Council certified the EIR and
27 issued final approvals for the Project.

28 ///

1 8. Petitioner and Plaintiff is informed and believes, and on that basis alleges, that
2 Respondent CSD is a governmental body within Moreno Valley, established pursuant to the
3 Community Services District Law (Cal. Gov. Code section 61000 et seq.). CSD is a dependent
4 special district of Moreno Valley, and the Moreno Valley City Council serves as the Board of
5 Directors of the CSD. CSD has responsibility for certain funding mechanisms and services within
6 the territory of Moreno Valley. CSD, its staff, and contractors and consultants working under its
7 control and direction, approved a resolution, which relied on the EIR's analysis, furthering the
8 Project.

9 9. Petitioner and Plaintiff is informed and believes and on that basis alleges that
10 Highland Fairview is a Real Party in Interest insofar as the Notices of Determination that Moreno
11 Valley prepared and filed with the Riverside County Clerk on August 20, 2015, and August 26,
12 2015, following certification of the EIR and approval of the Project, identified Highland Fairview
13 as the applicant for the Project that is the subject of this proceeding.

14 10. Petitioner and Plaintiff is informed and believes and on that basis alleges that
15 Highland Fairview Operating Company, a Delaware general partnership, is a Real Party in
16 Interest insofar as it is listed as an owner and developer of the property and the applicant for the
17 Project that is the subject of this proceeding or has some other cognizable interest in the Project.

18 11. Petitioner and Plaintiff is informed and believes and on that basis alleges that HF
19 Properties, a California general partnership, is a Real Party in Interest insofar as it is listed as an
20 owner and developer of the property and the applicant for the Project that is the subject of this
21 proceeding or has some other cognizable interest in the Project.

22 12. Petitioner and Plaintiff is informed and believes and on that basis alleges that
23 Sunnymead Properties, a Delaware general partnership, is a Real Party in Interest insofar as it is
24 listed as an owner and developer of the property and the applicant for the Project that is the
25 subject of this proceeding or has some other cognizable interest in the Project.

26 13. Petitioner and Plaintiff is informed and believes and on that basis alleges that
27 Theodore Properties Partners, a Delaware general partnership, is a Real Party in Interest insofar
28 as it is listed as the owner and developer of the property and the applicant for the Project that is

1 the subject of this proceeding or has some other cognizable interest in the Project.

2 14. Petitioner and Plaintiff is informed and believes and on that basis alleges that
3 13451 Theodore, LLC, a California limited liability company, is a Real Party in Interest insofar as
4 it is listed as the owner and developer of the property and the applicant for the Project that is the
5 subject of this proceeding or has some other cognizable interest in the Project.

6 15. Petitioner and Plaintiff is informed and believes and on that basis alleges that the
7 HL Property Partners, a Delaware general partnership, is a Real Party in Interest insofar as it is
8 listed as the owner and developer of the property and the applicant for the Project that is the
9 subject of this proceeding or has some other cognizable interest in the Project.

10 16. The true names and capacities of the Respondents and Defendants identified as
11 DOES 1 through 20, and the Real Parties in Interest identified as ROES 21 through 40 are
12 unknown to the County, who will seek the Court's permission to amend this pleading in order to
13 allege the true name and capacities as soon as they are ascertained. The County is informed and
14 believes and on that basis alleges that the fictitiously named Respondents and Defendants DOES
15 1 through 20 have jurisdiction by law over one or more aspects of the Project that is the subject of
16 this proceeding; and that each of the fictitiously named Real Parties in Interest ROES 21 through
17 40 either claims an ownership interest in the Project or has some other cognizable interest in the
18 Project.

19 **JURISDICTION**

20 17. This Court has jurisdiction to review Moreno Valley's findings, approvals, and
21 actions and issue a writ of mandate and grant declaratory and/or injunctive relief, as well as all
22 other relief sought herein, pursuant to Code of Civil Procedure sections 1085 and 1094.5 and
23 Public Resources Code sections 21168 and 21168.5, among other provisions of law.

24 **VENUE**

25 18. The Superior Court of the County of Riverside is the proper venue for this action.
26 The Project at issue and the property it concerns are located within the County of Riverside. The
27 County and Moreno Valley are located wholly within the County of Riverside.

28 **STANDING**

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1 19. The County and its residents will be directly and adversely affected by Moreno
2 Valley's actions in certifying the EIR and approving the Project. The County has no plain,
3 speedy, and adequate remedy in the ordinary course of law in that the County, its residents, and
4 the public will suffer irreparable harm if the Project is implemented.

5 20. As recognized in the EIR, the Project will have significant impacts on air,
6 transportation and traffic in Riverside County. Accordingly, any action which permits the Project
7 to go forward without disclosing and properly analyzing all Project impacts on the environment,
8 and imposing all feasible mitigation to reduce those impacts, is one in which the County, the
9 political subdivision of the State of California, responsible for land use planning in Riverside
10 County, has a beneficial interest. The County objected to Moreno Valley's approval of the Project
11 and requested that Moreno Valley comply with CEQA. The County, other agencies, organizations
12 and individuals raised or affirmed each of the legal deficiencies asserted in this Petition and
13 Complaint orally or in writing prior to Moreno Valley's approval of the Project and certification
14 of the EIR.

15 21. The County seeks to promote and enforce the informational purposes of CEQA in
16 this action, which purposes are defeated by Moreno Valley's approval of the Project without
17 sufficient or accurate information, analysis or mitigation. Ascertaining the facts about the
18 environmental impacts of projects and disclosing those facts to decision-makers and the public
19 are purposes that are within the zone of interests CEQA was intended to protect.

20 22. Moreno Valley has a mandatory and public duty to comply with CEQA and all
21 other applicable laws when adopting the EIR and approving the Project. The issues in this action
22 under CEQA are issues of public right, and the object of the action is to enforce public duties in
23 the public interest. The County has had to employ attorneys to bring this litigation. Furthermore,
24 the County has incurred and will incur substantial attorneys' fees and litigation costs because of
25 Respondents' unlawful acts. This litigation, if successful, will result in enforcement of important
26 rights affecting the public interest. Such enforcement will confer a significant benefit on a large
27 class of persons. The County is entitled to be reimbursed for its attorneys' fees and costs because
28 it is functioning as a private attorney general pursuant to section Code of Civil Procedure section

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1 1021.5.

2 23. Respondents and Real Parties in Interest are threatening to proceed with the
3 Project in the near future. Implementation of the Project will irreparably harm the environment in
4 that the Project will significantly increase traffic congestion and associated impacts on the
5 environment. The County has no plain, speedy, or adequate remedy at law, and, unless a stay,
6 preliminary injunction, temporary restraining order and injunction, or permanent injunction is
7 issued that restrains Respondents and Real Parties in Interest from proceeding with the Project,
8 the County will be unable to enforce its rights under CEQA, which prohibits Moreno Valley's
9 approval of the Project.

10 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11 24. This action is brought consistent with the requirements of Public Resources Code
12 section 21177 and Code of Civil Procedure sections 1085 and 1094.5. The County has exhausted
13 all available administrative remedies by objecting to Moreno Valley's approval of the Project
14 prior to Moreno Valley's certification of the EIR and approval of the Project and requesting that
15 Moreno Valley comply with CEQA. The County, other agencies, organizations, or individuals
16 raised or affirmed each of the legal deficiencies asserted in this Petition and Complaint orally or
17 in writing prior to Moreno Valley's adoption of the EIR and approval of the Project.

18 25. The County has complied with Public Resources Code section 21167.5 by prior
19 provision of notice to Moreno Valley indicating its intent to commence this action. The notice
20 and proof of service are attached hereto as Exhibit A.

21 26. Pursuant to Public Resources Code section 21167.7, the County has concurrently
22 provided a copy of this Petition and Complaint to the California Attorney General.

23 27. This lawsuit has been commenced within the time limits imposed for this action
24 under the Code of Civil Procedure and the Public Resources Code.

25 **THE PROJECT**

26 28. The County seeks issuance of a writ of mandate ordering Moreno Valley to vacate
27 and set aside its approvals of the Project.

28 ///

1 29. As stated in the EIR, on or about February 26, 2012, Moreno Valley issued a
2 Notice of Preparation (NOP) to notify state agencies and the public that an EIR was going to be
3 prepared for the Project. During the NOP review period, Moreno Valley received comments from
4 the County (in a letter dated May 1, 2012) and many other organizations and individuals, many of
5 which expressed concerns about the Project's significant size and likely impact on air quality,
6 transportation and traffic.

7 30. The County is informed and believes that the Draft EIR was circulated for public
8 review from approximately February 2013 through April 2013.

9 31. During the Draft EIR's public review period, numerous commenters, including the
10 County, submitted comments regarding inadequacies in the Draft EIR's analysis, including
11 potentially unmitigated significant impacts. The County's comment letter, dated April 9, 2013,
12 noted issues specifically with the Draft EIR's improper analysis of, and lack of adequate
13 mitigation measures to reduce, the Project's significant traffic impacts on Gilman Springs Road
14 and State Route 60, and its significant impacts on air quality in a basin that is already in
15 "nonattainment" status for ozone, nitrogen oxide, PM10, and PM2.5.

16 32. The Final EIR was released to the public in or about May of 2015.

17 33. In early June of 2015, prior to the Moreno Valley Planning Commission's
18 consideration of the EIR and Project, the County and others submitted letters to Moreno Valley
19 identifying outstanding deficiencies in the EIR, including air, transportation and traffic issues.
20 The County's letter, dated June 8, 2015, included five specific, feasible mitigation measures to
21 reduce the Project's significant impacts on the environment.

22 34. Moreno Valley responded to these comment letters on June 10, 2015. Moreno
23 Valley did not incorporate the County's proposed mitigation measures.

24 35. After a series of meetings held on June 11, 2015, and June 25, 2015, the Moreno
25 Valley Planning Commission recommended that the City Council certify the EIR and approve the
26 Project. A County representative offered testimony at the June 25, 2015 meeting to reiterate the
27 County's concerns about the Project.

28 ///

1 36. In August of 2015, prior to the City Council's consideration of the EIR and
2 Project, the County and many others agencies, entities, and individuals submitted *additional*
3 letters to Moreno Valley reiterating the EIR's deficiencies and explaining how Moreno Valley's
4 June 10, 2015 responses failed to address the inadequacies in the EIR's analysis.

5 37. Moreno Valley held a series of public meetings in mid-August, during which the
6 City Council heard testimony and considered the EIR and Project. A County representative
7 voiced the County's opposition to the Project and the County's legal concerns regarding the EIR
8 at the City Council's August 17, 2015 meeting. After closing the public hearing held on August
9 19, 2015, the City Council voted to adopt Resolution No. 2015-56 certifying the EIR. On or
10 around the same date, the City Council also adopted the following resolutions approving the
11 Project: Resolution No. 2015-57, which approved General Plan Amendment (PA12-0010);
12 Resolution No. 2015-58, which approved Tentative Parcel Map No. 36457 (PA12-0013); and
13 Resolution 2015-59, which requested that LAFCO initiate proceedings for the expansion of
14 Moreno Valley's boundaries. On or around the same date, the City Council also introduced the
15 following ordinances for first reading: Ordinance No. 900, approving Change of Zone (PA12-
16 0012), Specific Plan Amendment (PA12-0013) and Rezoning/Annexation (PA12-0014); and
17 Ordinance No. 901, approving a Development Agreement (PA12-0011).

18 38. Also on or about August 19, 2015, the CSD approved Resolution CSD 2015-29,
19 which requested that LAFCO initiate proceedings for the expansion of CSD's boundaries in
20 conjunction with the related annexation requested by the City Council.

21 39. On or about August 20, 2015, Moreno Valley filed a Notice of Determination
22 purporting to reflect its approval of a General Plan Amendment (PA12-0010), Development
23 Agreement (PA12-0011), Change of Zone (PA12-0012), Specific Plan (PA12-0013), Annexation
24 (PA12-0014), Tentative Parcel No. 36457 (PA12-0015), and an Environmental Impact Report
25 (P12-016) for the Project.

26 40. In conflict with the representations in the August 20, 2015 Notice of
27 Determination, the City Council held a meeting on August 25, 2015, whereat the City Council, on
28 second reading, adopted Ordinance No. 900, approving Change of Zone (PA12-0012), Specific

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1 Plan Amendment (PA12-0013) and Rezoning/Annexation (PA12-0014); and Ordinance No. 901,
2 approving a Development Agreement (PA12-0011).

3 41. On or about August 26, 2015, Moreno Valley filed another Notice of
4 Determination, purporting to reflect its approval of Resolution No. 2015-57, which approved
5 General Plan Amendment (PA12-0010); Resolution No. 2015-58, which approved Tentative
6 Parcel Map No. 36457 (PA12-0013); Resolution 2015-59, which requested that LAFCO initiate
7 proceedings for the expansion of Moreno Valley boundaries; Resolution CSD 2015-29, which
8 requested that LAFCO initiate proceedings for the expansion of the CSD boundary in conjunction
9 with the related annexation requested by the City Council; Ordinance No. 900, approving Change
10 of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and Rezoning/Annexation
11 (PA12-0014); and Ordinance No. 901, approving a Development Agreement (PA12-0011). The
12 August 26, 2015 Notice of Determination did not include reference to the City's resolution
13 certifying the EIR.

14 **FIRST CAUSE OF ACTION**

15 **(Petition for Writ of Mandate Pursuant to Code Civ. Proc., §§ 1085 and 1094.5 - Violation**
16 **of CEQA)**

17 **(Against All Respondents and Real Parties in Interest)**

18 42. The County incorporates by reference paragraphs 1 through 41, above, as though
19 set forth in full.

20 43. "[T]he legislature intended [CEQA] to be interpreted in such manner as to afford
21 the fullest possible protection to the environment within the reasonable scope of the statutory
22 language." (*City of San Diego v. Board of Trustees of the California State University* (2015) 61
23 Cal.4th 945, 963 [internal punctuation and citation omitted].) When complying with CEQA, a
24 lead agency must proceed in the manner required by law, and its determinations must be
25 supported by substantial evidence. (Pub. Resources Code, § 21168.5.) "CEQA requires a public
26 agency to mitigate or avoid its projects' significant effects not just on the agency's own property
27 but on the environment." (*City of San Diego, supra*, 61 Cal.4th at 957.) "CEQA defines the
28 environment as the physical conditions which exist *within* the area *which will be affected by a*

1 *proposed project* and mandates that each public agency shall mitigate or avoid the significant
2 *effects on the environment* of projects that it carries out or approves whenever it is feasible to do
3 so.” (*Id.* at 960 [italics in original, internal quotes and citations omitted].) “An EIR that
4 incorrectly disclaims the power and duty to mitigate identified environmental effects based on
5 erroneous legal assumptions is not sufficient as an informative document, and an agency’s use of
6 an erroneous legal standard constitutes a failure to proceed in a manner required by law.” (*Id.* at
7 956 [internal citations omitted].)

8 44. The County is informed and believes, and on that basis alleges, that Moreno
9 Valley violated CEQA in numerous ways.

10 45. Moreno Valley’s failure to comply with CEQA includes, but is not limited to, the
11 following:

12 a. **Failure to Identify and Adequately Analyze Project Impacts:** An EIR’s
13 conclusions must be supported by substantial evidence in the administrative record. Here, despite
14 Moreno Valley’s own statements to the contrary, the EIR failed to fully and properly analyze the
15 potential for the Project to impact the environment. For example, the EIR failed to include
16 discussion of the Project’s full impacts on Gilman Springs Road—a two-lane road that will
17 experience the daily addition of 6,019 autos and 420 trucks—such as the segment from Bridge
18 Street to Lambs Canyon/Sanderson. Additionally, although Section 4.15 of the EIR discusses a
19 traffic study, and admits that the Project will have significant impacts on area roadways,
20 segments, intersections and freeway facilities (EIR, 4.15-239 to 4.15-240), the traffic study failed
21 to adequately discuss the Project’s impacts on State Route 60, particularly in light of the
22 enormous volume of traffic generation that will be associated with the Project. The EIR also
23 failed to fully account for the Project’s significant air impacts in a polluted, non-attainment air
24 basin and to adequately identify and analyze the specific health effects that these air quality
25 impacts will have on the residents of Riverside County. These and other omissions raised in the
26 comments prior to certification of the EIR render the EIR’s analysis inadequate under CEQA.

27 b. **Failure to Adopt Adequate Mitigation Measures:** “[E]ach public agency shall
28 mitigate or avoid the significant effects on the environment of projects that it carries out or

1 approves whenever it is feasible to do so.” (Pub. Resources Code, § 21002.1(b).) Mitigation of a
2 project’s impacts can be accomplished by (1) Avoiding the impact by not taking a certain action
3 or parts of the action, (2) Minimizing impacts by limiting an activity; Repairing, rehabilitating, or
4 restoring the affected environment, (3) Reducing or eliminating an impact over time through
5 preservation and maintenance operations, or (4) Compensating for an impact by replacing or
6 providing substitute resources or environments, including the payment of fees to provide
7 mitigation for an impact identified in an EIR. (CEQA Guidelines, § 15370.)

8 Here, substantial evidence in the record reflects that Moreno Valley failed to adopt
9 adequate mitigation measures. For example the EIR states that the Project will have significant
10 and unavoidable impacts on a lengthy list of roads, including “all freeway mainline, weaving, and
11 ramp facilities.” (EIR at 4.15-239.) That list includes Gilman Springs Road and State Route 60,
12 operated and maintained, at least in part, by the County. The EIR concludes that its transportation
13 and traffic impacts are significant and unavoidable because no fair-share program currently exists
14 for numerous roads outside the City’s jurisdiction, and “the City cannot guarantee that such a
15 mechanism will be established and [the City] does not have direct control over facilities outside
16 of its jurisdiction.” (EIR at 4.15-237.) However, as explained in a comment letter from the
17 California Department of Transportation on August 17, 2015:

18 “Nothing in CEQA requires Caltrans to adopt a contribution
19 program before fair share payments can be considered adequate
20 mitigation. All that is required is that mitigation be part of a
21 reasonable plan of actual mitigation that the relevant agency
22 commits itself to implementing. Here specific mitigation measures
23 were identified in consultation with Caltrans. Caltrans is willing to
24 commit to work with the City, or other local partners and other
25 developers to secure the funding for and to implement these, or
26 comparable measure’s [sic] subject to future CEQA compliance
27 requirements as applicable. If the City prefers additional assurance
28 about how the fair share contributions will be used, reasonable
mechanisms exist to provide those assurances, such as traffic
mitigation agreements or cooperative agreements.

Unfortunately, the City has not explored those options or consulted
with Caltrans regarding any others. Thus the City’s take it or leave
it condition that Caltrans adopt a contribution plan or no payment is
required does not comply with CEQA’s mandate that the lead
agency include all reasonable mitigation. And the fact that the FEIR
did not examine these options demonstrate that the City’s

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P.O. BOX 1028
RIVERSIDE, CALIFORNIA 92502

1 conclusion that such mitigation would be infeasible is unsupported
2 by substantial evidence.”

3 This confirms the validity of the traffic concerns expressed by the County—whose five specific,
4 feasible traffic and transportation mitigation measures named in its June 8, 2015 comment letter
5 were ignored and many others who commented on the Project, namely that feasible mitigation
6 was available to reduce the Project's significant impacts to area roads. Additionally, feasible
7 mitigation measures to reduce the Project's air impacts were also proposed by many commenters,
8 including the California Air Resources Board, the South Coast Air Quality Management District,
9 the American Lung Association and others, and rejected by Moreno Valley. Moreno Valley's
10 failure to incorporate feasible mitigation to reduce significant impacts is an abuse of discretion.
11 Further, Moreno Valley's improper rejection of feasible mitigation is not supported by substantial
12 evidence.

13 c. **Failure to Adequately Respond to Comments on the Draft EIR: CEQA**

14 requires lead agencies to evaluate comments on the draft EIR and prepare written responses for
15 inclusion in the EIR. (Pub. Resources Code, § 21091(d).) When a significant environmental issue
16 is raised in comments, the response must be detailed and provide a reasoned, good faith analysis.
17 (14 C.C.R., § 15088(c).) The County and others provided Moreno Valley with detailed comments
18 on how it could make the Draft EIR's air, traffic and transportation analyses legally adequate. But
19 Moreno Valley did not sufficiently respond to those comments nor did it incorporate the feasible
20 mitigation measures proposed by commenters or improve the impact analysis.

21 d. **Failure to Provide an Adequate Environmental Setting/Baseline:** The

22 determination whether a project may have a significant effect on the environment requires that the
23 lead agency determine whether it might result in “a substantial, or potentially substantial, adverse
24 change in the environment.” (Pub. Resources Code, § 21068; CEQA Guidelines, § 15382) In
25 order to assess the changes to the environment that will result from a project, the agency
26 preparing an EIR must identify the environmental baseline against which a project's changes to
27 the environment are measured. Moreno Valley failed to adequately do so. For example, the
28 Project's air and transportation/traffic impacts discussion relied on hypothetical baselines, based

1 on what *could* be built on the project site, not on actual, existing conditions. This and other
2 inadequacies in the EIR violate CEQA's requirement that *existing* conditions serve as the
3 environmental baseline.

4 e. **Failure to Conduct Sufficient Environmental Review:** Moreno Valley failed to
5 conduct sufficient environmental review for the Project despite the fact that Moreno Valley's own
6 documentation concedes that the Project has the potential to cause a number of foreseeable direct
7 and indirect potentially significant impacts. The EIR and its process also violate CEQA in
8 numerous other ways due to deficiencies in the EIR's environmental setting, inadequate
9 disclosure and analysis, inadequate mitigation and failure to address potentially significant
10 impacts. The inadequacies described above and in this paragraph are prejudicial and require
11 Project approvals to be revoked and full environmental review in compliance with CEQA
12 conducted before the Project can proceed.

13 f. **Failure to Adopt Legally Adequate Findings:** When an EIR identifies
14 significant environmental effects that may result from a project, the lead agency must make one
15 or more specific findings for those impacts. (Pub. Resources Code, § 21081; 14 C.C.R., §
16 15091(a).) Findings of infeasibility must be specific and supported by substantial evidence in the
17 record. (Pub. Resources Code, § 21081.5.) "[I]t is the policy of the state that public agencies
18 should not approve projects as proposed if there are feasible alternatives or feasible mitigation
19 measures available which would substantially lessen the significant environmental effects of such
20 projects." (Pub. Resources Code, § 21002.) Here, the findings adopted by Moreno Valley are
21 legally inadequate. For example, specific and feasible mitigation measures were proposed by the
22 County and others to reduce the Project's significant impacts on air, transportation and traffic.
23 But Moreno Valley, without incorporating the proposed mitigation measures and without
24 substantial evidence, stated in its findings that the Project's air, transportation and traffic impact
25 were "reduced to the extent feasible." This is a violation of CEQA.

26 g. **Failure to Adopt an Adequate Statement of Overriding Considerations:**
27 When an agency approves a project with significant environmental effects that will not be
28 avoided or substantially lessened, it must adopt a statement of overriding considerations. (14

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1 C.C.R., § 15043.) Moreno Valley failed to adopt a legally adequate Statement of Overriding
2 Considerations in that the overriding considerations are not supported by substantial evidence in
3 the record.

4 46. Moreno Valley thereby violated its duties to comply with CEQA and the CEQA
5 Guidelines. Accordingly, the EIR and Project approvals must be set aside. And the County asks
6 this Court for an award of attorney's fees and costs against Respondents and Real Parties in
7 Interest as permitted or required by law.

8 **SECOND CAUSE OF ACTION**

9 **(Declaratory Relief)**

10 **(Against All Respondents and Real Parties in Interest)**

11 47. The County hereby incorporates by this reference the allegations of Paragraphs 1
12 through 46 as though fully set forth herein.

13 48. An actual controversy has arisen and now exists between the County and Moreno
14 Valley. The County contends that Moreno Valley has not complied with the provisions of CEQA
15 in certifying the EIR and approving the Project. The County believes that the Project will cause it
16 irreparable injury for which the County has no adequate remedy at law and will have significant
17 adverse effects on the environment.

18 49. The County is informed and believes, and on that basis alleges, that Moreno
19 Valley disputes the contentions of the County as described in the immediately preceding
20 paragraph.

21 50. The County seeks a judicial declaration and determination of the respective rights
22 and duties of Moreno Valley.

23 51. A judicial declaration and determination is necessary and appropriate at this time
24 in order that the County may ascertain its rights with respect to the duties and obligations of
25 Moreno Valley and in order to resolve all controversies between the parties hereto regarding such
26 rights and duties.

27 52. The County asks this Court for an award of attorney's fees and costs against
28 Respondents and Real Parties in Interest as permitted or required by law.

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1 PRAYER

2 WHEREFORE, Petitioner and Plaintiff prays for entry of judgment as follows:

3
4 ON THE FIRST CAUSE OF ACTION

5 **(Against All Respondents and Real Parties in Interest)**

- 6 1. For a writ of mandate pursuant to Code of Civil Procedure sections 1085 and 1094.5 and
7 Public Resources Code section 21167 directing Moreno Valley as follows:
- 8 a. To set aside adoption of the EIR;
 - 9 b. To rescind approval of the Project;
 - 10 c. To cease, vacate, and set aside all actions related to the authorization, approval,
11 and execution of the Project;
 - 12 d. To prepare and circulate, in compliance with CEQA and the CEQA Guidelines
13 adequate environmental review, prior to any re-approval; and
 - 14 e. To prohibit any action by Moreno Valley in furtherance of the Project until
15 Respondents comply with the mandates of CEQA.
- 16 2. For a stay, temporary restraining order, preliminary injunction, and permanent injunction
17 prohibiting any actions by Moreno Valley or the Real Parties In Interest pursuant to
18 Moreno Valley's approval of the Project until Moreno Valley fully complies with all
19 requirements of CEQA and all other applicable state and local laws, policies, ordinances,
20 and regulations.

21 ON THE SECOND CAUSE OF ACTION

22 **(Against All Respondents and Real Parties in Interest)**

- 23 1. That this Court declare Moreno Valley's discretionary approval of the Project in violation
24 of CEQA as set forth above.
- 25 2. That this Court declare that Moreno Valley must properly prepare, circulate, and consider
26 adequate environmental documentation for the Project in order to meet the requirements
27 of CEQA.

1 **ON ALL CAUSES OF ACTION**


2 **(Against All Respondents and Real Parties in Interest)**

- 3 1. For an award of attorneys' fees incurred in this matter as permitted or required by law.
4 (Code Civ. Proc., § 1021.5.);
5 2. For the County's costs of suit incurred herein; and
6 3. For such other and further relief as the Court deems just and proper.

7 Dated: September 18, 2015

GREGORY P. PRIAMOS, County Counsel,
KARIN WATTS-BAZAN, Principal Deputy
County Counsel
MELISSA R. CUSHMAN, Deputy County
Counsel
COUNTY OF RIVERSIDE, OFFICE OF
COUNTY COUNSEL

BEST BEST & KRIEGER LLP

8
9
10
11
12
13 By: 

14 MICHELLE OUELLETTE
15 CHARITY SCHILLER
16 ANDREW M. SKANCHY
17 Attorneys for Petitioner/Plaintiff
18 County of Riverside
19
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EXHIBIT A

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Michelle Ouellette
(951) 826-8373
Michelle.Ouellette@bbklaw.com
File No. 26506.00036

September 18, 2015

VIA FIRST CLASS MAIL

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

Re: Notice of Commencement of Action

Dear Ms. Halstead:

On behalf of our client, the County of Riverside (the "County"), please take notice, pursuant to Public Resources Code section 21167.5, that the County is commencing an action against the City of Moreno Valley (the "City") by filing a Petition for Writ of Mandate in the Superior Court of California, County of Riverside.

The Petition challenges the following approvals of the World Logistics Center Project by the City and the Moreno Valley Community Services District:

1. Resolution No. 2015-56 certifying the Final Environmental Impact Report (P12-016), adopting Findings and Statement of Overriding Considerations and approving the Mitigation Monitoring Program for the World Logistics Center Project;
2. Resolution No. 2015-57 approving General Plan Amendments (PA12-0010), including land use changes for property within the World Logistics Center Specific Plan Area to business park/light industrial (BP) and open space (OS), properties outside of the World Logistics Center Specific Plan to open space (OS) and corresponding General Plan element goals and objectives text and map amendments to the community development, circulation, parks, recreation and open space, safety and conservation elements;
3. Resolution No. 2015-58 approving PA12-0015 (Tentative Parcel Map No. 36457) for the purposes of establishing 26 parcels for financing and conveyance purposes, including an 85 acre parcel of land currently located in the County of Riverside adjacent to Gilman Springs Road and Alessandro Boulevard and which is included in the World Logistics Center Specific Plan;



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 18, 2015
Page 2

4. Resolution No. 2015-59 requesting the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the City boundary for approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard (APN Nos. 422-130-002 and 422-130-003);

5. Resolution No. 2015-29 to request the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the Community Services District boundary to include approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard in conjunction with a related annexation (APN Nos. 422-130-002 and 422-130-003);

6. Ordinance No. 900 approving PA12-0012 (change of zone), PA12-0013 (Specific Plan) and PA12-0014 (pre-zoning/annexation), which include the proposed World Logistics Center Specific Plan, a full repeal of the Moreno Highlands Specific Plan No. 212-1, pre-zoning/annexation for 85 acres at northwest corner of Gilman Springs Road and Alessandro Boulevard, change of zone to logistics development (LD), light logistics (LL) and open space (OS) for areas within the proposed World Logistics Center Specific Plan boundary, and a change of zone to open space (OS) for those project areas outside and southerly of the proposed World Logistics Center Specific Plan boundary; and

7. Ordinance No. 901 approving PA12-0011 (Development Agreement) for the World Logistics Center Project which real estate Highland Fairview has legal or equitable interest in, on approximately 2,263 acres, within the World Logistics Specific Plan area (2,610 acres), intended to be developed as high cube logistics warehouse and related ancillary uses generally east of Redlands Boulevard, South of State Route 60, West of Gilman Springs Road and North of the San Jacinto Wildlife area.

The grounds for the County's Petition is that the City failed to comply with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

Sincerely,

Michelle Ouellette
of BEST BEST & KRIEGER LLP

MO:tli

cc: Gregory P. Priamos, Riverside County Counsel
Karin Watts-Bazan, Principal Deputy County Counsel



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 18, 2015
Page 3

PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is 3390 University Avenue, 5th Floor, P.O. Box 1028, Riverside, California 92502. On September 18, 2015, I served the following document(s):

NOTICE OF COMMENCEMENT OF ACTION

By fax transmission. Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

By United States mail. I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):

Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

Placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Riverside, California.

By personal service. At ____ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 18, 2015
Page 4

- By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service for service. A Declaration of Messenger is attached.
- By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- By e-mail or electronic transmission.** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 18, 2015, at Riverside, California.


Monica Castanon

1 MICHELLE OUELLETTE, Bar No. 145191
CHARITY SCHILLER, Bar No. 234291
2 ANDREW M. SKANCHY, Bar No. 240461
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11 Telephone: (951) 955-6300
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12
13 Attorneys for Petitioner/Plaintiff
COUNTY OF RIVERSIDE

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

C. Mundo

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF RIVERSIDE
16

17 COUNTY OF RIVERSIDE, a political
subdivision of the State of California,

18 Petitioner/Plaintiff,

19 v.

20 CITY OF MORENO VALLEY, a municipal
corporation;
21 MORENO VALLEY COMMUNITY
22 SERVICES DISTRICT, a dependent special
district of the City of Moreno Valley; and
23 DOES 1-20, inclusive,

24 Respondents/Defendants.

25 HIGHLAND FAIRVIEW;
26 HIGHLAND FAIRVIEW OPERATING
COMPANY, a Delaware general partnership;
27 HF PROPERTIES, a California general
partnership;
28 SUNNYMEAD PROPERTIES, a Delaware

Case No **RIC 1511180**

**PETITIONER'S ELECTION TO
PREPARE THE ADMINISTRATIVE
RECORD**

(CEQA)

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general partnership;
THEODORE PROPERTIES PARTNERS, a
Delaware general partnership;
13451 THEODORE, LLC, a California limited
liability company;
HL PROPERTY PARTNERS, a Delaware
general partnership; and
ROES 21 – 40 inclusive,

Real Parties in Interest.

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TO RESPONDENT CITY OF MORENO VALLEY:

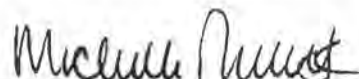
Pursuant to Public Resources Code § 21167.6, Petitioner Riverside County Transportation Commission ("Petitioner") hereby notifies Respondent City of Moreno Valley of Petitioner's election to prepare the Administrative Record of proceedings relating to this action.

Petitioner therefore requests that Respondent notify Petitioner's attorney of record in writing when the items constituting the administrative record are available for inspection and photocopying. The documents that constitute the administrative record consist of, but are not limited to, all transcripts, minutes of meetings, notices, proofs of publications, mailing lists, correspondence, emails, reports, studies, proposed decisions, final decisions, findings, notices of determination, and any other documents or records relating to Respondent's approval of the World Logistics Center Project (SCH No. 2012021045).

Dated: September 18, 2015

GREGORY P. PRIAMOS, County Counsel
KARIN WATTS-BAZAN, Principal Deputy
County Counsel
MELISSA R. CUSHMAN, Deputy County
Counsel
OFFICE OF COUNTY COUNSEL,
COUNTY OF RIVERSIDE

BEST BEST & KRIEGER LLP

By: 
MICHELLE OUELLETTE
CHARITY SCHILLER
ANDREW M. SKANCHY
Attorneys for Petitioner and Plaintiff
County of Riverside

1 MICHELLE OUELLETTE, Bar No. 145191
CHARITY SCHILLER, Bar No. 234291
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12
13 Attorneys for Petitioner/Plaintiff
COUNTY OF RIVERSIDE

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE
SEP 18 2015
C. Mundo

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF RIVERSIDE
16

17 COUNTY OF RIVERSIDE, a political
subdivision of the State of California,
18
19 Petitioner/Plaintiff,

20 v.

21 CITY OF MORENO VALLEY, a municipal
corporation;
22 MORENO VALLEY COMMUNITY
SERVICES DISTRICT, a dependent special
23 district of the City of Moreno Valley; and
DOES 1-20, inclusive,
24 Respondents/Defendants.

25 HIGHLAND FAIRVIEW;
26 HIGHLAND FAIRVIEW OPERATING
COMPANY, a Delaware general partnership;
27 HF PROPERTIES, a California general
partnership;
28 SUNNYMEAD PROPERTIES, a Delaware

Case No. **RIC 1511 1 80**
**NOTICE TO ATTORNEY GENERAL
OF CEQA ACTION**
(CEQA)

25183.00015\19443480.1

COPY

1 general partnership;
2 THEODORE PROPERTIES PARTNERS, a
3 Delaware general partnership;
4 13451 THEODORE, LLC, a California limited
5 liability company;
6 HL PROPERTY PARTNERS, a Delaware
7 general partnership; and
8 ROES 21 - 40 inclusive,

Real Parties in Interest.

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TO THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA:

PLEASE TAKE NOTICE, pursuant to Public Resources Code section 21167.7 and Code of Civil Procedure section 388, that on September 18, 2015, Petitioner and Plaintiff the County of Riverside filed a Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief under the California Environmental Quality Act (“Petition”) against Respondents City of Moreno Valley and the Moreno Valley Community Services District (collectively “Respondents”), in the Superior Court of the State of California, County of Riverside.

The Petition alleges that Respondent City of Moreno Valley violated the California Environmental Quality Act (“CEQA”) (Public Resources Code section 21000 et seq.) by certifying the Final Environmental Impact Report for the World Logistics Center Project (State Clearinghouse No. 2012021045) (the “Project”), adopting Findings and Statement of Overriding Considerations and approving the Mitigation Monitoring Program for the Project.

The Petition also alleges that the Respondents’ adopting of Resolutions approving the General Plan Amendments, including land use changes to property within the Project area, and initiating proceedings with the Riverside Local Agency Formation Commission for the expansion of the Respondents’ boundaries to include approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard, and adopting Ordinances regarding the same were done in violation of CEQA. The City of Moreno Valley is the lead agency responsible under CEQA for evaluating the environmental impacts of the Project. This Project was approved without an adequate or proper environmental review under CEQA.

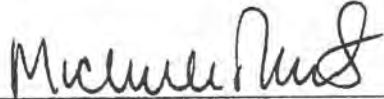
A copy of the Petition is attached to this notice as Exhibit “A.”

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Dated: September 18, 2015

GREGORY P. PRIAMOS, County Counsel
KARIN WATTS-BAZAN, Principal Deputy
County Counsel
MELISSA R. CUSHMAN, Deputy County
Counsel
OFFICE OF COUNTY COUNSEL,
COUNTY OF RIVERSIDE

BEST BEST & KRIEGER LLP

By: 
MICHELLE OUELLETTE
CHARITY SCHILLER
ANDREW M. SKANCHY
Attorneys for Petitioner and Plaintiff
County of Riverside

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EXHIBIT "A"

1 MICHELLE OUELLETTE, Bar No. 145191
2 CHARITY SCHILLER, Bar No. 234291
3 ANDREW M. SKANCHY, Bar No. 240461
4 BEST BEST & KRIEGER LLP
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EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

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8 KARIN WATTS-BAZAN, Principal Deputy
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11 Counsel, Bar No. 246398
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18 Attorneys for Petitioner/Plaintiff
19 COUNTY OF RIVERSIDE

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA
21 COUNTY OF RIVERSIDE

22 COUNTY OF RIVERSIDE, a political
23 subdivision of the State of California,
24
25 Petitioner/Plaintiff,

26 v.

27 CITY OF MORENO VALLEY, a municipal
28 corporation;
29 MORENO VALLEY COMMUNITY
30 SERVICES DISTRICT BOARD; and
31 DOES 1-20, inclusive,

32 Respondents/Defendants.

33 HIGHLAND FAIRVIEW;
34 HIGHLAND FAIRVIEW OPERATING
35 COMPANY, a Delaware general partnership;
36 HF PROPERTIES, a California general
37 partnership;
38 SUNNYMEAD PROPERTIES, a Delaware
39 general partnership;

Case No.

(California Environmental Quality Act)

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

[Code Civ. Proc., §§ 1085, 1094.5; CEQA
(Pub. Resources Code, §§ 21000 et seq.)]

[Deemed Verified Pursuant to Code of
Civ. Proc., § 446]

1 THEODORE PROPERTIES PARTNERS, a
Delaware general partnership;
2 13451 THEODORE, LLC, a California limited
liability company;
3 HL PROPERTY PARTNERS, a Delaware
general partnership; and
4 ROES 21 – 40 inclusive,

5 Real Parties in Interest.

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1 proceedings for the expansion of the CSD's boundary in conjunction with the related annexation
2 requested by the City Council.

3 5. As detailed below, Moreno Valley failed to properly exercise its duties as lead
4 agency under CEQA and California Code of Civil Procedure, title 14, section 15000 et seq.
5 (hereinafter, CEQA Guidelines), resulting in Moreno Valley's improper approval of the Project,
6 without adequate or proper environmental review under CEQA. Through this lawsuit, the County
7 seeks to enforce the provisions of CEQA as they apply to the Project. The maintenance and
8 prosecution of this action will confer a substantial benefit on the public by ensuring full
9 compliance with the requirements of CEQA, a public-disclosure statute, and by protecting the
10 public from the unanalyzed potential environmental harms, unmitigated environmental impacts
11 and lack of adoption of all feasible mitigation measures as alleged in this Petition and Complaint.

12 **THE PARTIES**

13 6. Petitioner and Plaintiff County, is, and at all relevant times was a political
14 subdivision of the State of California. Among other responsibilities, the County is responsible for
15 planning and governing land use in Riverside County in a manner that protects the public health,
16 safety, welfare, and environment of its residents. Through one of the County's departments, the
17 Transportation and Land Management Agency, the County provides planning, environmental,
18 building and other services.

19 7. Respondent and Defendant Moreno Valley is a general law city organized and
20 existing under and by virtue of the laws of the State of California, and is situated in the County of
21 Riverside. Moreno Valley is authorized and required by law to hold public hearings, to determine
22 whether CEQA applies to development within its jurisdiction, to determine the adequacy of and
23 adopt or certify environmental documents prepared pursuant to CEQA, and to determine whether
24 a project is compatible with the objectives, policies, general land uses, and programs specified in
25 the General Plan. Moreno Valley, its staff, and contractors and consultants working under its
26 control and direction prepared the EIR for the Project, and its City Council certified the EIR and
27 issued final approvals for the Project.

28 ///

1 8. Petitioner and Plaintiff is informed and believes, and on that basis alleges, that
2 Respondent CSD is a governmental body within Moreno Valley, established pursuant to the
3 Community Services District Law (Cal. Gov. Code section 61000 et seq.). CSD is a dependent
4 special district of Moreno Valley, and the Moreno Valley City Council serves as the Board of
5 Directors of the CSD. CSD has responsibility for certain funding mechanisms and services within
6 the territory of Moreno Valley. CSD, its staff, and contractors and consultants working under its
7 control and direction, approved a resolution, which relied on the EIR's analysis, furthering the
8 Project.

9 9. Petitioner and Plaintiff is informed and believes and on that basis alleges that
10 Highland Fairview is a Real Party in Interest insofar as the Notices of Determination that Moreno
11 Valley prepared and filed with the Riverside County Clerk on August 20, 2015, and August 26,
12 2015, following certification of the EIR and approval of the Project, identified Highland Fairview
13 as the applicant for the Project that is the subject of this proceeding.

14 10. Petitioner and Plaintiff is informed and believes and on that basis alleges that
15 Highland Fairview Operating Company, a Delaware general partnership, is a Real Party in
16 Interest insofar as it is listed as an owner and developer of the property and the applicant for the
17 Project that is the subject of this proceeding or has some other cognizable interest in the Project.

18 11. Petitioner and Plaintiff is informed and believes and on that basis alleges that HF
19 Properties, a California general partnership, is a Real Party in Interest insofar as it is listed as an
20 owner and developer of the property and the applicant for the Project that is the subject of this
21 proceeding or has some other cognizable interest in the Project.

22 12. Petitioner and Plaintiff is informed and believes and on that basis alleges that
23 Sunnymead Properties, a Delaware general partnership, is a Real Party in Interest insofar as it is
24 listed as an owner and developer of the property and the applicant for the Project that is the
25 subject of this proceeding or has some other cognizable interest in the Project.

26 13. Petitioner and Plaintiff is informed and believes and on that basis alleges that
27 Theodore Properties Partners, a Delaware general partnership, is a Real Party in Interest insofar
28 as it is listed as the owner and developer of the property and the applicant for the Project that is

1 the subject of this proceeding or has some other cognizable interest in the Project.

2 14. Petitioner and Plaintiff is informed and believes and on that basis alleges that
3 13451 Theodore, LLC, a California limited liability company, is a Real Party in Interest insofar as
4 it is listed as the owner and developer of the property and the applicant for the Project that is the
5 subject of this proceeding or has some other cognizable interest in the Project.

6 15. Petitioner and Plaintiff is informed and believes and on that basis alleges that the
7 HL Property Partners, a Delaware general partnership, is a Real Party in Interest insofar as it is
8 listed as the owner and developer of the property and the applicant for the Project that is the
9 subject of this proceeding or has some other cognizable interest in the Project.

10 16. The true names and capacities of the Respondents and Defendants identified as
11 DOES 1 through 20, and the Real Parties in Interest identified as ROES 21 through 40 are
12 unknown to the County, who will seek the Court's permission to amend this pleading in order to
13 allege the true name and capacities as soon as they are ascertained. The County is informed and
14 believes and on that basis alleges that the fictitiously named Respondents and Defendants DOES
15 1 through 20 have jurisdiction by law over one or more aspects of the Project that is the subject of
16 this proceeding; and that each of the fictitiously named Real Parties in Interest ROES 21 through
17 40 either claims an ownership interest in the Project or has some other cognizable interest in the
18 Project.

19 JURISDICTION

20 17. This Court has jurisdiction to review Moreno Valley's findings, approvals, and
21 actions and issue a writ of mandate and grant declaratory and/or injunctive relief, as well as all
22 other relief sought herein, pursuant to Code of Civil Procedure sections 1085 and 1094.5 and
23 Public Resources Code sections 21168 and 21168.5, among other provisions of law.

24 VENUE

25 18. The Superior Court of the County of Riverside is the proper venue for this action.
26 The Project at issue and the property it concerns are located within the County of Riverside. The
27 County and Moreno Valley are located wholly within the County of Riverside.

28 STANDING

1 19. The County and its residents will be directly and adversely affected by Moreno
2 Valley's actions in certifying the EIR and approving the Project. The County has no plain,
3 speedy, and adequate remedy in the ordinary course of law in that the County, its residents, and
4 the public will suffer irreparable harm if the Project is implemented.

5 20. As recognized in the EIR, the Project will have significant impacts on air,
6 transportation and traffic in Riverside County. Accordingly, any action which permits the Project
7 to go forward without disclosing and properly analyzing all Project impacts on the environment,
8 and imposing all feasible mitigation to reduce those impacts, is one in which the County, the
9 political subdivision of the State of California, responsible for land use planning in Riverside
10 County, has a beneficial interest. The County objected to Moreno Valley's approval of the Project
11 and requested that Moreno Valley comply with CEQA. The County, other agencies, organizations
12 and individuals raised or affirmed each of the legal deficiencies asserted in this Petition and
13 Complaint orally or in writing prior to Moreno Valley's approval of the Project and certification
14 of the EIR.

15 21. The County seeks to promote and enforce the informational purposes of CEQA in
16 this action, which purposes are defeated by Moreno Valley's approval of the Project without
17 sufficient or accurate information, analysis or mitigation. Ascertaining the facts about the
18 environmental impacts of projects and disclosing those facts to decision-makers and the public
19 are purposes that are within the zone of interests CEQA was intended to protect.

20 22. Moreno Valley has a mandatory and public duty to comply with CEQA and all
21 other applicable laws when adopting the EIR and approving the Project. The issues in this action
22 under CEQA are issues of public right, and the object of the action is to enforce public duties in
23 the public interest. The County has had to employ attorneys to bring this litigation. Furthermore,
24 the County has incurred and will incur substantial attorneys' fees and litigation costs because of
25 Respondents' unlawful acts. This litigation, if successful, will result in enforcement of important
26 rights affecting the public interest. Such enforcement will confer a significant benefit on a large
27 class of persons. The County is entitled to be reimbursed for its attorneys' fees and costs because
28 it is functioning as a private attorney general pursuant to section Code of Civil Procedure section

1 1021.5.

2 23. Respondents and Real Parties in Interest are threatening to proceed with the
3 Project in the near future. Implementation of the Project will irreparably harm the environment in
4 that the Project will significantly increase traffic congestion and associated impacts on the
5 environment. The County has no plain, speedy, or adequate remedy at law, and, unless a stay,
6 preliminary injunction, temporary restraining order and injunction, or permanent injunction is
7 issued that restrains Respondents and Real Parties in Interest from proceeding with the Project,
8 the County will be unable to enforce its rights under CEQA, which prohibits Moreno Valley's
9 approval of the Project.

10 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11 24. This action is brought consistent with the requirements of Public Resources Code
12 section 21177 and Code of Civil Procedure sections 1085 and 1094.5. The County has exhausted
13 all available administrative remedies by objecting to Moreno Valley's approval of the Project
14 prior to Moreno Valley's certification of the EIR and approval of the Project and requesting that
15 Moreno Valley comply with CEQA. The County, other agencies, organizations, or individuals
16 raised or affirmed each of the legal deficiencies asserted in this Petition and Complaint orally or
17 in writing prior to Moreno Valley's adoption of the EIR and approval of the Project.

18 25. The County has complied with Public Resources Code section 21167.5 by prior
19 provision of notice to Moreno Valley indicating its intent to commence this action. The notice
20 and proof of service are attached hereto as Exhibit A.

21 26. Pursuant to Public Resources Code section 21167.7, the County has concurrently
22 provided a copy of this Petition and Complaint to the California Attorney General.

23 27. This lawsuit has been commenced within the time limits imposed for this action
24 under the Code of Civil Procedure and the Public Resources Code.

25 **THE PROJECT**

26 28. The County seeks issuance of a writ of mandate ordering Moreno Valley to vacate
27 and set aside its approvals of the Project.

28 ///

1 29. As stated in the EIR, on or about February 26, 2012, Moreno Valley issued a
2 Notice of Preparation (NOP) to notify state agencies and the public that an EIR was going to be
3 prepared for the Project. During the NOP review period, Moreno Valley received comments from
4 the County (in a letter dated May 1, 2012) and many other organizations and individuals, many of
5 which expressed concerns about the Project's significant size and likely impact on air quality,
6 transportation and traffic.

7 30. The County is informed and believes that the Draft EIR was circulated for public
8 review from approximately February 2013 through April 2013.

9 31. During the Draft EIR's public review period, numerous commenters, including the
10 County, submitted comments regarding inadequacies in the Draft EIR's analysis, including
11 potentially unmitigated significant impacts. The County's comment letter, dated April 9, 2013,
12 noted issues specifically with the Draft EIR's improper analysis of, and lack of adequate
13 mitigation measures to reduce, the Project's significant traffic impacts on Gilman Springs Road
14 and State Route 60, and its significant impacts on air quality in a basin that is already in
15 "nonattainment" status for ozone, nitrogen oxide, PM10, and PM2.5.

16 32. The Final EIR was released to the public in or about May of 2015.

17 33. In early June of 2015, prior to the Moreno Valley Planning Commission's
18 consideration of the EIR and Project, the County and others submitted letters to Moreno Valley
19 identifying outstanding deficiencies in the EIR, including air, transportation and traffic issues.
20 The County's letter, dated June 8, 2015, included five specific, feasible mitigation measures to
21 reduce the Project's significant impacts on the environment.

22 34. Moreno Valley responded to these comment letters on June 10, 2015. Moreno
23 Valley did not incorporate the County's proposed mitigation measures.

24 35. After a series of meetings held on June 11, 2015, and June 25, 2015, the Moreno
25 Valley Planning Commission recommended that the City Council certify the EIR and approve the
26 Project. A County representative offered testimony at the June 25, 2015 meeting to reiterate the
27 County's concerns about the Project.

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1 36. In August of 2015, prior to the City Council's consideration of the EIR and
2 Project, the County and many others agencies, entities, and individuals submitted *additional*
3 letters to Moreno Valley reiterating the EIR's deficiencies and explaining how Moreno Valley's
4 June 10, 2015 responses failed to address the inadequacies in the EIR's analysis.

5 37. Moreno Valley held a series of public meetings in mid-August, during which the
6 City Council heard testimony and considered the EIR and Project. A County representative
7 voiced the County's opposition to the Project and the County's legal concerns regarding the EIR
8 at the City Council's August 17, 2015 meeting. After closing the public hearing held on August
9 19, 2015, the City Council voted to adopt Resolution No. 2015-56 certifying the EIR. On or
10 around the same date, the City Council also adopted the following resolutions approving the
11 Project: Resolution No. 2015-57, which approved General Plan Amendment (PA12-0010);
12 Resolution No. 2015-58, which approved Tentative Parcel Map No. 36457 (PA12-0013); and
13 Resolution 2015-59, which requested that LAFCO initiate proceedings for the expansion of
14 Moreno Valley's boundaries. On or around the same date, the City Council also introduced the
15 following ordinances for first reading: Ordinance No. 900, approving Change of Zone (PA12-
16 0012), Specific Plan Amendment (PA12-0013) and Rezoning/Annexation (PA12-0014); and
17 Ordinance No. 901, approving a Development Agreement (PA12-0011).

18 38. Also on or about August 19, 2015, the CSD approved Resolution CSD 2015-29,
19 which requested that LAFCO initiate proceedings for the expansion of CSD's boundaries in
20 conjunction with the related annexation requested by the City Council.

21 39. On or about August 20, 2015, Moreno Valley filed a Notice of Determination
22 purporting to reflect its approval of a General Plan Amendment (PA12-0010), Development
23 Agreement (PA12-0011), Change of Zone (PA12-0012), Specific Plan (PA12-0013), Annexation
24 (PA12-0014), Tentative Parcel No. 36457 (PA12-0015), and an Environmental Impact Report
25 (P12-016) for the Project.

26 40. In conflict with the representations in the August 20, 2015 Notice of
27 Determination, the City Council held a meeting on August 25, 2015, whereat the City Council, on
28 second reading, adopted Ordinance No. 900, approving Change of Zone (PA12-0012), Specific

1 Plan Amendment (PA12-0013) and Rezoning/Annexation (PA12-0014); and Ordinance No. 901,
2 approving a Development Agreement (PA12-0011).

3 41. On or about August 26, 2015, Moreno Valley filed another Notice of
4 Determination, purporting to reflect its approval of Resolution No. 2015-57, which approved
5 General Plan Amendment (PA12-0010); Resolution No. 2015-58, which approved Tentative
6 Parcel Map No. 36457 (PA12-0013); Resolution 2015-59, which requested that LAFCO initiate
7 proceedings for the expansion of Moreno Valley boundaries; Resolution CSD 2015-29, which
8 requested that LAFCO initiate proceedings for the expansion of the CSD boundary in conjunction
9 with the related annexation requested by the City Council; Ordinance No. 900, approving Change
10 of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and Rezoning/Annexation
11 (PA12-0014); and Ordinance No. 901, approving a Development Agreement (PA12-0011). The
12 August 26, 2015 Notice of Determination did not include reference to the City's resolution
13 certifying the EIR.

14 **FIRST CAUSE OF ACTION**

15 **(Petition for Writ of Mandate Pursuant to Code Civ. Proc., §§ 1085 and 1094.5 - Violation**
16 **of CEQA)**

17 **(Against All Respondents and Real Parties in Interest)**

18 42. The County incorporates by reference paragraphs 1 through 41, above, as though
19 set forth in full.

20 43. "[T]he legislature intended [CEQA] to be interpreted in such manner as to afford
21 the fullest possible protection to the environment within the reasonable scope of the statutory
22 language." (*City of San Diego v. Board of Trustees of the California State University* (2015) 61
23 Cal.4th 945, 963 [internal punctuation and citation omitted].) When complying with CEQA, a
24 lead agency must proceed in the manner required by law, and its determinations must be
25 supported by substantial evidence. (Pub. Resources Code, § 21168.5.) "CEQA requires a public
26 agency to mitigate or avoid its projects' significant effects not just on the agency's own property
27 but on the environment." (*City of San Diego, supra*, 61 Cal.4th at 957.) "CEQA defines the
28 environment as the physical conditions which exist *within* the area *which will be affected by a*

1 *proposed project* and mandates that each public agency shall mitigate or avoid the significant
2 *effects on the environment* of projects that it carries out or approves whenever it is feasible to do
3 so.” (*Id.* at 960 [italics in original, internal quotes and citations omitted].) “An EIR that
4 incorrectly disclaims the power and duty to mitigate identified environmental effects based on
5 erroneous legal assumptions is not sufficient as an informative document, and an agency’s use of
6 an erroneous legal standard constitutes a failure to proceed in a manner required by law.” (*Id.* at
7 956 [internal citations omitted].)

8 44. The County is informed and believes, and on that basis alleges, that Moreno
9 Valley violated CEQA in numerous ways.

10 45. Moreno Valley’s failure to comply with CEQA includes, but is not limited to, the
11 following:

12 a. **Failure to Identify and Adequately Analyze Project Impacts:** An EIR’s
13 conclusions must be supported by substantial evidence in the administrative record. Here, despite
14 Moreno Valley’s own statements to the contrary, the EIR failed to fully and properly analyze the
15 potential for the Project to impact the environment. For example, the EIR failed to include
16 discussion of the Project’s full impacts on Gilman Springs Road—a two-lane road that will
17 experience the daily addition of 6,019 autos and 420 trucks—such as the segment from Bridge
18 Street to Lambs Canyon/Sanderson. Additionally, although Section 4.15 of the EIR discusses a
19 traffic study, and admits that the Project will have significant impacts on area roadways,
20 segments, intersections and freeway facilities (EIR, 4.15-239 to 4.15-240), the traffic study failed
21 to adequately discuss the Project’s impacts on State Route 60, particularly in light of the
22 enormous volume of traffic generation that will be associated with the Project. The EIR also
23 failed to fully account for the Project’s significant air impacts in a polluted, non-attainment air
24 basin and to adequately identify and analyze the specific health effects that these air quality
25 impacts will have on the residents of Riverside County. These and other omissions raised in the
26 comments prior to certification of the EIR render the EIR’s analysis inadequate under CEQA.

27 b. **Failure to Adopt Adequate Mitigation Measures:** “[E]ach public agency shall
28 mitigate or avoid the significant effects on the environment of projects that it carries out or

1 approves whenever it is feasible to do so.” (Pub. Resources Code, § 21002.1(b).) Mitigation of a
2 project’s impacts can be accomplished by (1) Avoiding the impact by not taking a certain action
3 or parts of the action, (2) Minimizing impacts by limiting an activity; Repairing, rehabilitating, or
4 restoring the affected environment, (3) Reducing or eliminating an impact over time through
5 preservation and maintenance operations, or (4) Compensating for an impact by replacing or
6 providing substitute resources or environments, including the payment of fees to provide
7 mitigation for an impact identified in an EIR. (CEQA Guidelines, § 15370.)

8 Here, substantial evidence in the record reflects that Moreno Valley failed to adopt
9 adequate mitigation measures. For example the EIR states that the Project will have significant
10 and unavoidable impacts on a lengthy list of roads, including “all freeway mainline, weaving, and
11 ramp facilities.” (EIR at 4.15-239.) That list includes Gilman Springs Road and State Route 60,
12 operated and maintained, at least in part, by the County. The EIR concludes that its transportation
13 and traffic impacts are significant and unavoidable because no fair-share program currently exists
14 for numerous roads outside the City’s jurisdiction, and “the City cannot guarantee that such a
15 mechanism will be established and [the City] does not have direct control over facilities outside
16 of its jurisdiction.” (EIR at 4.15-237.) However, as explained in a comment letter from the
17 California Department of Transportation on August 17, 2015:

18 “Nothing in CEQA requires Caltrans to adopt a contribution
19 program before fair share payments can be considered adequate
20 mitigation. All that is required is that mitigation be part of a
21 reasonable plan of actual mitigation that the relevant agency
22 commits itself to implementing. Here specific mitigation measures
23 were identified in consultation with Caltrans. Caltrans is willing to
24 commit to work with the City, or other local partners and other
25 developers to secure the funding for and to implement these, or
26 comparable measure’s [sic] subject to future CEQA compliance
27 requirements as applicable. If the City prefers additional assurance
28 about how the fair share contributions will be used, reasonable
mechanisms exist to provide those assurances, such as traffic
mitigation agreements or cooperative agreements.

Unfortunately, the City has not explored those options or consulted
with Caltrans regarding any others. Thus the City’s take it or leave
it condition that Caltrans adopt a contribution plan or no payment is
required does not comply with CEQA’s mandate that the lead
agency include all reasonable mitigation. And the fact that the FEIR
did not examine these options demonstrate that the City’s

1 conclusion that such mitigation would be infeasible is unsupported
2 by substantial evidence.”

3 This confirms the validity of the traffic concerns expressed by the County—whose five specific,
4 feasible traffic and transportation mitigation measures named in its June 8, 2015 comment letter
5 were ignored—and many others who commented on the Project, namely that feasible mitigation
6 was available to reduce the Project’s significant impacts to area roads. Additionally, feasible
7 mitigation measures to reduce the Project’s air impacts were also proposed by many commenters,
8 including the California Air Resources Board, the South Coast Air Quality Management District,
9 the American Lung Association and others, and rejected by Moreno Valley. Moreno Valley’s
10 failure to incorporate feasible mitigation to reduce significant impacts is an abuse of discretion.
11 Further, Moreno Valley’s improper rejection of feasible mitigation is not supported by substantial
12 evidence.

13 c. **Failure to Adequately Respond to Comments on the Draft EIR: CEQA**

14 requires lead agencies to evaluate comments on the draft EIR and prepare written responses for
15 inclusion in the EIR. (Pub. Resources Code, § 21091(d).) When a significant environmental issue
16 is raised in comments, the response must be detailed and provide a reasoned, good faith analysis.
17 (14 C.C.R., § 15088(c).) The County and others provided Moreno Valley with detailed comments
18 on how it could make the Draft EIR’s air, traffic and transportation analyses legally adequate. But
19 Moreno Valley did not sufficiently respond to those comments nor did it incorporate the feasible
20 mitigation measures proposed by commenters or improve the impact analysis.

21 d. **Failure to Provide an Adequate Environmental Setting/Baseline:** The

22 determination whether a project may have a significant effect on the environment requires that the
23 lead agency determine whether it might result in “a substantial, or potentially substantial, adverse
24 change in the environment.” (Pub. Resources Code, § 21068; CEQA Guidelines, § 15382.) In
25 order to assess the changes to the environment that will result from a project, the agency
26 preparing an EIR must identify the environmental baseline against which a project’s changes to
27 the environment are measured. Moreno Valley failed to adequately do so. For example, the
28 Project’s air and transportation/traffic impacts discussion relied on hypothetical baselines, based

1 on what *could* be built on the project site, not on actual, existing conditions. This and other
2 inadequacies in the EIR violate CEQA's requirement that *existing* conditions serve as the
3 environmental baseline.

4 e. **Failure to Conduct Sufficient Environmental Review:** Moreno Valley failed to
5 conduct sufficient environmental review for the Project despite the fact that Moreno Valley's own
6 documentation concedes that the Project has the potential to cause a number of foreseeable direct
7 and indirect potentially significant impacts. The EIR and its process also violate CEQA in
8 numerous other ways due to deficiencies in the EIR's environmental setting, inadequate
9 disclosure and analysis, inadequate mitigation and failure to address potentially significant
10 impacts. The inadequacies described above and in this paragraph are prejudicial and require
11 Project approvals to be revoked and full environmental review in compliance with CEQA
12 conducted before the Project can proceed.

13 f. **Failure to Adopt Legally Adequate Findings:** When an EIR identifies
14 significant environmental effects that may result from a project, the lead agency must make one
15 or more specific findings for those impacts. (Pub. Resources Code, § 21081; 14 C.C.R., §
16 15091(a).) Findings of infeasibility must be specific and supported by substantial evidence in the
17 record. (Pub. Resources Code, § 21081.5.) "[I]t is the policy of the state that public agencies
18 should not approve projects as proposed if there are feasible alternatives or feasible mitigation
19 measures available which would substantially lessen the significant environmental effects of such
20 projects." (Pub. Resources Code, § 21002.) Here, the findings adopted by Moreno Valley are
21 legally inadequate. For example, specific and feasible mitigation measures were proposed by the
22 County and others to reduce the Project's significant impacts on air, transportation and traffic.
23 But Moreno Valley, without incorporating the proposed mitigation measures and without
24 substantial evidence, stated in its findings that the Project's air, transportation and traffic impact
25 were "reduced to the extent feasible." This is a violation of CEQA.

26 g. **Failure to Adopt an Adequate Statement of Overriding Considerations:**
27 When an agency approves a project with significant environmental effects that will not be
28 avoided or substantially lessened, it must adopt a statement of overriding considerations. (14

1 C.C.R., § 15043.) Moreno Valley failed to adopt a legally adequate Statement of Overriding
2 Considerations in that the overriding considerations are not supported by substantial evidence in
3 the record.

4 46. Moreno Valley thereby violated its duties to comply with CEQA and the CEQA
5 Guidelines. Accordingly, the EIR and Project approvals must be set aside. And the County asks
6 this Court for an award of attorney's fees and costs against Respondents and Real Parties in
7 Interest as permitted or required by law.

8 **SECOND CAUSE OF ACTION**

9 **(Declaratory Relief)**

10 **(Against All Respondents and Real Parties in Interest)**

11 47. The County hereby incorporates by this reference the allegations of Paragraphs 1
12 through 46 as though fully set forth herein.

13 48. An actual controversy has arisen and now exists between the County and Moreno
14 Valley. The County contends that Moreno Valley has not complied with the provisions of CEQA
15 in certifying the EIR and approving the Project. The County believes that the Project will cause it
16 irreparable injury for which the County has no adequate remedy at law and will have significant
17 adverse effects on the environment.

18 49. The County is informed and believes, and on that basis alleges, that Moreno
19 Valley disputes the contentions of the County as described in the immediately preceding
20 paragraph.

21 50. The County seeks a judicial declaration and determination of the respective rights
22 and duties of Moreno Valley.

23 51. A judicial declaration and determination is necessary and appropriate at this time
24 in order that the County may ascertain its rights with respect to the duties and obligations of
25 Moreno Valley and in order to resolve all controversies between the parties hereto regarding such
26 rights and duties.

27 52. The County asks this Court for an award of attorney's fees and costs against
28 Respondents and Real Parties in Interest as permitted or required by law.

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PRAYER

WHEREFORE, Petitioner and Plaintiff prays for entry of judgment as follows:

ON THE FIRST CAUSE OF ACTION

(Against All Respondents and Real Parties in Interest)

1. For a writ of mandate pursuant to Code of Civil Procedure sections 1085 and 1094.5 and Public Resources Code section 21167 directing Moreno Valley as follows:
 - a. To set aside adoption of the EIR;
 - b. To rescind approval of the Project;
 - c. To cease, vacate, and set aside all actions related to the authorization, approval, and execution of the Project;
 - d. To prepare and circulate, in compliance with CEQA and the CEQA Guidelines adequate environmental review, prior to any re-approval; and
 - e. To prohibit any action by Moreno Valley in furtherance of the Project until Respondents comply with the mandates of CEQA.
2. For a stay, temporary restraining order, preliminary injunction, and permanent injunction prohibiting any actions by Moreno Valley or the Real Parties In Interest pursuant to Moreno Valley's approval of the Project until Moreno Valley fully complies with all requirements of CEQA and all other applicable state and local laws, policies, ordinances, and regulations.

ON THE SECOND CAUSE OF ACTION

(Against All Respondents and Real Parties in Interest)

1. That this Court declare Moreno Valley's discretionary approval of the Project in violation of CEQA as set forth above.
2. That this Court declare that Moreno Valley must properly prepare, circulate, and consider adequate environmental documentation for the Project in order to meet the requirements of CEQA.

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ON ALL CAUSES OF ACTION

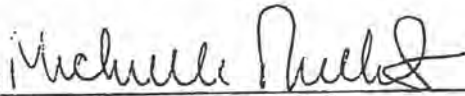
(Against All Respondents and Real Parties in Interest)

1. For an award of attorneys' fees incurred in this matter as permitted or required by law.
(Code Civ. Proc., § 1021.5);
2. For the County's costs of suit incurred herein; and
3. For such other and further relief as the Court deems just and proper.

Dated: September 18, 2015

GREGORY P. PRIAMOS, County Counsel,
KARIN WATTS-BAZAN, Principal Deputy
County Counsel
MELISSA R. CUSHMAN, Deputy County
Counsel
COUNTY OF RIVERSIDE, OFFICE OF
COUNTY COUNSEL

BEST BEST & KRIEGER LLP

By: 

MICHELLE OUELLETTE
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County of Riverside

EXHIBIT A

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Michelle Ouellette
(951) 826-8373
Michelle.Ouellette@bbklaw.com
File No. 26506.00036

September 18, 2015

VIA FIRST CLASS MAIL

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

Re: Notice of Commencement of Action

Dear Ms. Halstead:

On behalf of our client, the County of Riverside (the "County"), please take notice, pursuant to Public Resources Code section 21167.5, that the County is commencing an action against the City of Moreno Valley (the "City") by filing a Petition for Writ of Mandate in the Superior Court of California, County of Riverside.

The Petition challenges the following approvals of the World Logistics Center Project by the City and the Moreno Valley Community Services District:

1. Resolution No. 2015-56 certifying the Final Environmental Impact Report (P12-016), adopting Findings and Statement of Overriding Considerations and approving the Mitigation Monitoring Program for the World Logistics Center Project;
2. Resolution No. 2015-57 approving General Plan Amendments (PA12-0010), including land use changes for property within the World Logistics Center Specific Plan Area to business park/light industrial (BP) and open space (OS), properties outside of the World Logistics Center Specific Plan to open space (OS) and corresponding General Plan element goals and objectives text and map amendments to the community development, circulation, parks, recreation and open space, safety and conservation elements;
3. Resolution No. 2015-58 approving PA12-0015 (Tentative Parcel Map No. 36457) for the purposes of establishing 26 parcels for financing and conveyance purposes, including an 85 acre parcel of land currently located in the County of Riverside adjacent to Gilman Springs Road and Alessandro Boulevard and which is included in the World Logistics Center Specific Plan;



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ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 18, 2015
Page 2

4. Resolution No. 2015-59 requesting the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the City boundary for approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard (APN Nos. 422-130-002 and 422-130-003);

5. Resolution No. 2015-29 to request the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the Community Services District boundary to include approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard in conjunction with a related annexation (APN Nos. 422-130-002 and 422-130-003);

6. Ordinance No. 900 approving PA12-0012 (change of zone), PA12-0013 (Specific Plan) and PA12-0014 (pre-zoning/annexation), which include the proposed World Logistics Center Specific Plan, a full repeal of the Moreno Highlands Specific Plan No. 212-1, pre-zoning/annexation for 85 acres at northwest corner of Gilman Springs Road and Alessandro Boulevard, change of zone to logistics development (LD), light logistics (LL) and open space (OS) for areas within the proposed World Logistics Center Specific Plan boundary, and a change of zone to open space (OS) for those project areas outside and southerly of the proposed World Logistics Center Specific Plan boundary; and

7. Ordinance No. 901 approving PA12-0011 (Development Agreement) for the World Logistics Center Project which real estate Highland Fairview has legal or equitable interest in, on approximately 2,263 acres, within the World Logistics Specific Plan area (2,610 acres), intended to be developed as high cube logistics warehouse and related ancillary uses generally east of Redlands Boulevard, South of State Route 60, West of Gilman Springs Road and North of the San Jacinto Wildlife area.

The grounds for the County's Petition is that the City failed to comply with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

Sincerely,

Michelle Ouellette
of BEST BEST & KRIEGER LLP

MO:tl

cc: Gregory P. Priamos, Riverside County Counsel
Karin Watts-Bazan, Principal Deputy County Counsel



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 18, 2015
Page 3

PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is 3390 University Avenue, 5th Floor, P.O. Box 1028, Riverside, California 92502. On September 18, 2015, I served the following document(s):

NOTICE OF COMMENCEMENT OF ACTION

- By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
- By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):
- Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - Placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Riverside, California.

- By personal service.** At ___ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

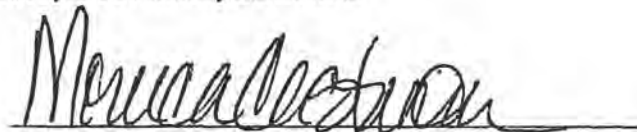
Jane Halstead, City Clerk
City of Moreno Valley
September 18, 2015
Page 4

- By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service for service. A Declaration of Messenger is attached.
- By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- By e-mail or electronic transmission.** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 18, 2015, at Riverside, California.


Monica Castanon

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

4050 Main Street

Riverside, CA 92501

www.riverside.courts.ca.gov

NOTICE OF DEPARTMENT ASSIGNMENT

CASE NO. RIC1511180

vs

TO:

This case has been assigned to the HONORABLE Judge Craig G. Riemer in Department 05 for all purposes.

Department 5 is located at 4050 Main Street, Riverside, CA 92501.

Any disqualification pursuant to CCP section 170.6 shall be filed in accordance with that section.

The filing party shall serve a copy of this notice on all parties.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See California Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing NOTICE on this date, by depositing said copy as stated above.

Court Executive Officer/Clerk

by:

CARMEN I. MUNDO, Deputy Clerk

Date: 09/18/15

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF STATUS CONFERENCE

COUNTY OF RIVERSIDE VS CITY OF MORENO VALLEY

CASE NO. RIC1511180

The Status Conference is scheduled for:

DATE: 11/20/15
TIME: 8:30 a.m.
DEPT: 05

All matters including, but not limited to, Fast Track hearings, law and motion, and settlement conference hearings shall be heard by the assigned judge until further order of the Court.

Any disqualification pursuant to CCP 170.6 shall be filed in accordance with that section.

The plaintiff/cross-complainant shall serve a copy of this notice on all defendants/cross-defendants who are named or added to the complaint and file proof of service.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See CA Rules of Court, rule 1.100.

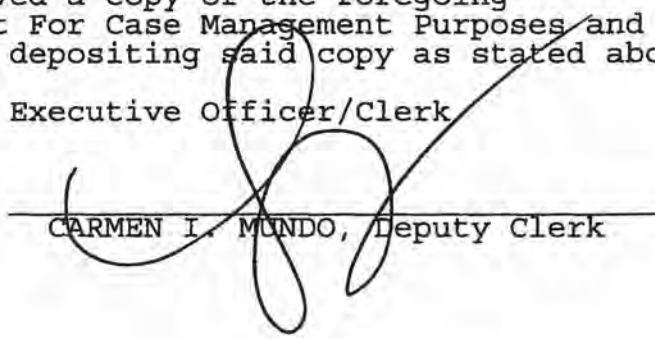
CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing Notice of Assignment To Department For Case Management Purposes and Status Conference on this date, by depositing said copy as stated above

Dated: 09/18/15

Court Executive Officer/Clerk

By:


CARMEN I. MUNDO, Deputy Clerk

ac:stch shw

SUMMONS
(CITACION JUDICIAL)

15 SEP 23 PM 4: 47

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

Superior Court Of California
County Of Riverside
09/22/2015
A.RANGEL
BY FAX

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

City of Moreno Valley, a municipality;
(Additional Parties Attachment form is attached)

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Laborers International Union of North America, Local Union No. 1184,
an organized labor union

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

CASE NUMBER.
(Número del Caso)

RIC1511279

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Richard Drury/ Michael Lozeau, Lozeau Drury LLP, 410 12th St., Ste 250, Oakland, CA 94607, 510-836-4200

DATE: ~~SEP 21 2015~~
(Fecha)

9/22/15

Clerk, by
(Secretario)

A. RANGEL

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010))

NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):

- 3. on behalf of (specify): **CITY OF MORENO VALLEY, A MUNICIPALITY**

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
- CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership) CCP 416.90 (authorized person)

- 4. other (specify): **PUBLIC ENTITY CCP 416.50**

- by personal delivery on (date): **9-23-15**

[SEAL]



SHORT TITLE:

Laborers Int'l Union of No. America v. City of Moreno Valley, et al

CASE NUMBER:

INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

Plaintiff Defendant Cross-Complainant Cross-Defendant

City Council of the City of Moreno Valley; HIGHLAND FAIRVIEW; HF PROPERTIES, a California general partnership; SUNNYMEAD PROPERTIES, a Delaware general partnership; THEODORE PROPERTIES PARTNERS, a Delaware general partnership; 13451 THEODORE LLC, a California limited liability company; HL PROPERTY PARTNERS, a Delaware general partnership; HIGHLAND FAIRVIEW OPERATING CO., a general partnership; HIGHLAND FAIRVIEW PROPERTIES, a California limited liability company; HIGHLAND FAIRVIEW COMMUNITIES, a Delaware limited liability company; HIGHLAND FAIRVIEW CONSTRUCTION, INC., a California corporation; HIGHLAND FAIREVIEW CORPORATE PARK ASSOCIATION, a California corporation.

Page _____ of _____

Page 1 of 1

CITY CLERK
MORENO VALLEY
RECEIVED

15 SEP 23 PM 4: 49

FILED

Superior Court Of California
County Of Riverside
09/22/2015
**A.RANGEL
BY FAX**

1 Michael R. Lozeau (Bar No. 142893)
2 Richard T. Drury (Bar No. 163559)
3 LOZEAU DRURY LLP
4 410 12th Street, Suite 250
5 Oakland, CA 94607
6 Tel: (510) 836-4200
7 Fax: (510) 836-4205
8 E-mail: michael@lozeaudrury.com
9 richard@lozeaudrury.com

Attorneys for Petitioner and Plaintiff

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF RIVERSIDE

10 LABORERS INTERNATIONAL UNION OF
11 NORTH AMERICA, LOCAL UNION NO.
12 1184, an organized labor union,

Petitioner and Plaintiff,

v.

14 CITY OF MORENO VALLEY, a
15 municipality; and CITY COUNCIL OF THE
16 CITY OF MORENO VALLEY,

Respondents and Defendants;

Case No.: **RIC1511279**

VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF

(California Environmental Quality Act
("CEQA"), Pub. Res. Code § 21000, et seq.;
Code of Civil Procedure §§ 1094.5, 1085)

Dept: CEQA Case

18 HIGHLAND FAIRVIEW, HF PROPERTIES,
19 a California general partnership,
20 SUNNYMEAD PROPERTIES, a Delaware
21 general partnership; THEODORE
22 PROPERTIES PARTNERS, a Delaware
23 general partnership; 13451 THEODORE LLC,
24 a California limited liability company; HL
25 PROPERTY PARTNERS, a Delaware general
26 partnership; HIGHLAND FAIRVIEW
27 OPERATING CO., a general partnership,
28 HIGHLAND FAIRVIEW PROPERTIES, a
California limited liability company;
HIGHLAND FAIRVIEW COMMUNITIES, a
Delaware limited liability company;
HIGHLAND FAIRVIEW CONSTRUCTION,
INC., a California corporation; HIGHLAND
FAIREVIEW CORPORATE PARK
ASSOCIATION, a California corporation,

1

Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief

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Real Parties in Interest and
Defendants.

Petitioner and Plaintiff Laborers International Union of North America, Local Union No. 1184 (hereinafter “Petitioner,, or “LIUNA,,) petitions this Court for a writ of mandate directed to Respondents and Defendants City of Moreno Valley and City Council of the City of Moreno Valley (collectively “Respondents,, or “City,,), and by this verified petition and complaint, allege as follows:

1. Petitioner brings this action to challenge the unlawful actions of Respondents in approving Resolution No. 2015-56 certifying the Final Environmental Impact Report (“Final EIR,,), adopting the Findings and Statement of Overriding Considerations and approving the mitigation monitoring program for the World Logistics Center (WLC) Specific Plan (the “Project,,), approving the World Logistics Center Specific Plan (Ordinance No. 900), General Plan Amendment (GPA), (Resolution No. 2015-57), Zone Change (Ordinance No. 900), Approval of the Development Agreement (Ordinance No. 901), Tentative Parcel Map (Resolution No. 2015-58), and approval of the Annexation for an 85-acre parcel (Resolution No. 2015-59), allowing development of the Project. These actions were taken by Respondents in violation of the requirements of the California Environmental Quality Act (“CEQA,,), Public Resources Code § 21000 *et seq.*, and the CEQA Guidelines, title 14, California Code of Regulations, § 15000 *et seq.*

2. The Project is a proposed industrial park of up to 40.4 million square feet of “high-cube logistics,, warehouse distribution uses and 200,000 square feet of warehousing-related uses on 2,610 acres in the City of Moreno Valley, in Riverside County, California.

3. Respondents prepared and relied on an EIR that falls well below CEQA’s minimum standards. The EIR is deficient in its discussion and analysis of the Project’s significant impacts on greenhouse gas (“GHG,,) emissions, traffic impacts, operational air pollution, construction pollution, biological impacts and urban decay. The EIR also impermissibly fails to address significant new information in its cumulative impacts analysis with respect to the proposed Moreno Valley Logistics Center (“MVLC,,) Project, another large warehouse and distribution facility proposed to be located in Moreno Valley. These and other violations of CEQA were carefully documented during administrative proceedings on the Project, but were never rectified by the City.

1 4. According to Respondents' EIR, the Project is expected to emit approximately
2 386,000 metric tons of carbon dioxide equivalents ("CO₂e,") per year (with mitigation). This
3 represents nearly half of the targeted annual GHG emissions for the entire City by the year 2020.
4 Nonetheless, the EIR finds that the GHG emissions for the project will be below the 10,000 metric
5 tons, the applicable threshold of significance. The EIR reaches this conclusion by ignoring 98% of
6 emissions because they are allegedly included in the AB 32 Cap and Trade Program. Moreover, the
7 FEIR adopts discretionary and unenforceable mitigation measures and fails to adopt other feasible
8 mitigation measures.

9 5. Similarly, the EIR's traffic impacts assessment fails to consider all traffic impacts. The
10 EIR also relies on deferred mitigation measures that depend on actions by other agencies without any
11 agreements in place to ensure such actions.

12 6. The EIR's conclusions regarding air pollution impacts are not supported by the record.
13 According to the EIR, mitigation measures requiring all diesel trucks accessing the project to use new
14 technology diesel exhaust (NTDE) are sufficient to result in a less than significant environmental
15 impact. First, the EIR fails to demonstrate the feasibility of constraining all trucks entering the project
16 site to those using NTDE. Even if it were feasible, the conclusion that NTDE does not cause cancer is
17 based on misinterpretation of a single recent study that is contrary to CARB's and OEHHA's official
18 findings that diesel particulate matter is a known human carcinogen.

19 7. The EIR fails to adequately consider cumulative impacts on air pollution, biological
20 resources, and traffic because it failed to consider all similar new and proposed projects in Moreno
21 Valley. Cumulative impacts associated with recent proposed warehousing facility, MVLC, were not
22 considered despite LIUNA's comments. Moreover, the EIR relied on improper and unscientific
23 methodologies for assessing biological impacts on sensitive species, such as the burrowing owls and
24 the Los Angeles pocket mouse, and completely failed to assess urban decay impacts.

25 8. Respondents prejudicially abused their discretion in certifying the EIR and approving
26 the Project. Accordingly, Respondents' approval of the Project and certification of the Final EIR
27 must be set aside.

28

PARTIES

1
2 9. Petitioner LIUNA is a labor organization representing thousands of employees who
3 are residents of Riverside County. LIUNA Local Union No. 1184 has numerous members residing
4 and working in and around the City of Moreno Valley and Riverside County. LIUNA Local Union
5 No. 1184's purposes include, but are not limited to, advocating on behalf of its members to ensure
6 safe workplace environments; working to protect recreational opportunities for its members to
7 improve its members quality of life when off the job; advocating to assure its members access to safe,
8 healthful, productive, and aesthetically and culturally pleasing surroundings on and off the job;
9 promoting environmentally sustainable businesses and development projects on behalf of its
10 members, including providing comments raising environmental concerns and benefits on proposed
11 development projects; advocating for changes to proposed development projects that will help to
12 achieve a balance between employment, the human population, and resource use which will permit
13 high standards of living and a wide sharing of life's amenities by its members as well as the general
14 public; advocating for steps to preserve important historic, cultural, and natural aspects of our
15 national heritage, and maintain, wherever possible, an environment which supports diversity and
16 variety of individual choice; and advocating on behalf of its members for programs, policies, and
17 development projects that promote not only good jobs but also a healthy natural environment and
18 working environment, including but not limited to advocating for changes to proposed projects and
19 policies that, if adopted, would reduce air, soil and water pollution, minimize harm to wildlife,
20 conserve wild places, reduce traffic congestion, reduce global warming impacts, and assure
21 compliance with applicable land use ordinances; and working to attain the widest range of beneficial
22 uses of the environment without degradation, risk to health or safety or other undesirable and
23 unintended consequences.

24 10. LIUNA Local Union No. 1184 and its members in Riverside County have several
25 distinct legally cognizable interests in this project. LIUNA Local Union No. 1184 members live,
26 work and recreate in Riverside County. LIUNA Local Union No. 1184 members may also be exposed
27 to construction and operational hazards from air pollution emissions that have not been adequately
28 analyzed or mitigated. The interests of LIUNA Local Union No. 1184 members are unique and will

1 be directly impacted by the project. Petitioner brings this action on behalf of itself, its members, and
2 the public interest.

3 11. LIUNA and its members have a direct and beneficial interest in Respondents'
4 compliance with laws bearing upon approval of the Project. These interests will be directly and
5 adversely affected by the Project, which violates provisions of law as set forth in this Petition and
6 would cause substantial harm to the natural environment and the quality of life in the surrounding
7 community. The maintenance and prosecution of this action will confer a substantial benefit on the
8 public by protecting the public from the environmental and other harms alleged herein. LIUNA and
9 its members actively participated in meetings hosted by the City leading up to the proposal and
10 adoption of the Project and Final EIR. LIUNA and its members submitted comments to Respondents
11 objecting to and commenting on the Project and the EIR.

12 12. Respondent City of Moreno Valley is the "lead agency,, for the Project for purposes of
13 Public Resources Code § 21067, and has principal responsibility for conducting environmental
14 review for the Project and taking other actions necessary to comply with CEQA.

15 13. Respondent City Council of Moreno Valley is the governing body of the City and is
16 ultimately responsible for reviewing and approving or denying the Project. The City Council and its
17 members are sued here in their official capacities.

18 14. On August 26, 2015, the City filed a Notice of Determination for the Project. The
19 August 26 Notice of Determination identifies "Highland Fairview,, as the applicant for the Project
20 and the only real party in interest pursuant to Public Resources Code § 21167.6.5.

21 15. Petitioner is informed and believes and thereupon alleges that one or more of the
22 following entities may comprise, in whole or in part, the "Highland Fairview,, identified in the Notice
23 of Determination and may have an interest in the Project: Highland Fairview, HF Properties, a
24 California general partnership, Sunnymead Properties, a Delaware general partnership; Theodore
25 Property Partners, a Delaware general partnership; 13451 Theodore LLC, a California limited
26 liability company; HL Property Partners, a Delaware general partnership; Highland Fairview
27 Operating Co., a general partnership, Highland Fairview Properties, a California limited liability
28 company; Highland Fairview Communities, a Delaware limited liability company; Highland Fairview

1 Construction, Inc., a California corporation; and Highland Fairview Corporate Park Association, a
2 California corporation.

3
4 **JURISDICTION AND VENUE AND CERTIFICATE OF COUNSEL AS TO PROPER**
5 **COURT BRANCH**

6 16. Pursuant to California Code of Civil Procedure section 1085 (alternatively section
7 1094.5) and Public Resources Code sections 21168.5 (alternatively section 21168) and 21168.9,
8 this Court has jurisdiction to issue a writ of mandate to set aside Respondents' decision to certify
9 the EIR and approve the Project. The Court has jurisdiction to issue declaratory relief pursuant to
10 Code of Civil Procedure § 1060 and injunctive relief pursuant to Code of Civil Procedure § 525 *et*
11 *seq.*

12 17. Venue is proper in this Court because this action challenges acts done by a public
13 agency, and the causes of action alleged in this Petition and Complaint arose in the County of
14 Riverside. Venue also is proper in this Court because the City is located in the County of Riverside.
15 Pursuant to Superior Court Local Rule 3115 and Section (f) the Court's Administrative Order dated
16 January 5, 2015, this case is filed in the Riverside Historic Courthouse, 4050 Main Street, Riverside,
17 California, 92501, because the decisions and project at issue occurred in the City of Moreno Valley.

18 18. Petitioner has complied with the requirements of Public Resources Code section
19 21167.5 by serving a written notice of Petitioner's intention to commence this action on Respondents
20 on February 25, 2015. A copy of the written notice and proof of service is attached hereto as Exhibit
21 A.

22 19. Petitioner has performed any and all conditions precedent to filing this instant action
23 and has exhausted any and all available administrative remedies to the extent required by law.

24 20. Petitioner has no plain, speedy or adequate remedy in the course of ordinary law
25 unless this Court grants the requested writ of mandate to require Respondents to set aside their
26 certification of the EIR and approval of the Project. In the absence of such remedies, Respondents'
27 decision will remain in effect in violation of state law.

1
2 **STATEMENT OF FACTS**

3 **Project Background**

4 21. The Project site encompasses 3,818 acres of land located in Rancho Belago, the
5 eastern portion of the City of Moreno Valley, and is situated directly south of State Route 60 (SR-60)
6 with the Badlands area to the east and northeast, the Mount Russell Range to the southwest, and
7 Mystic Lake and the San Jacinto wildlife Area to the southeast. In addition to the Specific Plan area,
8 the Project site includes (1) 910 acres of the California Department of Fish and Wildlife (CDFW)
9 Conservation Buffer area to the south, (2) 194 acres of Public Facilities Lands area, and (3) 104 acres
10 of Off-site Improvement Area.

11 22. The Specific Plan being evaluated in this EIR covers 2,610 acres and proposes a
12 maximum of 40.4 million square feet of “high-cube logistics,, warehouse distribution uses classified
13 as “Logistics Development,, (LD) and 200,000 square feet (approximately 0.5%) of warehousing-
14 related uses classified as “Light Logistics,, (LL). The lands within the WLC Specific Plan that are
15 designated LL are existing rural lots, some containing residential uses, that will become “legal, non-
16 conforming uses,, once the WLC Specific Plan is approved. In addition, the LD designation includes
17 land for two special use areas; a fire station and a “logistics support,, facility for vehicle fueling and
18 sale of convenience goods (3,000 square feet is assumed for planning purposes for the “logistics
19 support,,).

20 23. The Project site primarily consists of active farmland. Approximately 3,389 acres, or 89
21 percent of the project area, are designated as Farmland of Local Importance and approximately 25
22 acres are designated as Unique Farmland. The site is also scattered with seven residences.

23 24. The Final EIR states that the purpose of the proposed Project is to provide a new master-
24 planned facility specializing in logistics warehouse distribution services, and asserts that the
25 completed Project will achieve, among others, the following objectives: (1) providing a major
26 logistics center to accommodate a portion of the ever-expanding trade volumes at the Ports of Los
27 Angeles and Long Beach; (2) creating a major logistics center with good regional and freeway
28 access; (3) creating substantial employment opportunities for the citizens of Moreno Valley and

1 surrounding communities; and (4) providing the land use designation and infrastructure plan
2 necessary to meet current market demands and to support the City's Economic Development Action
3 Plan.

4 25. The EIR and Findings violate CEQA in a number of ways, including its analysis of GHG
5 emissions, failure to consider cumulative impacts of the MVLC project and other proposed logistics
6 centers with respect to GHG, air, biological, and traffic impacts, underestimating impacts from air
7 pollution, failure to analyze impacts from urban decay, and failure to adopt and/or make mandatory
8 all feasible mitigation measures for nitrogen oxides (NOx) and GHG emissions from the Project prior
9 to making a finding of overriding considerations,.

10 **Greenhouse Gas Emissions**

11 26. The Facts, Findings, and Statement of Overriding Considerations ("Findings,") estimates that
12 annual GHG emissions from operations at the Project site will be 386,000 metric tons of carbon
13 dioxide equivalents ("CO2e,") per year at buildout. This emissions figure is significant both by the
14 local air district's and the City of Moreno Valley's standards. The City of Moreno Valley generated
15 approximately 900,000 metric tons of CO2e in 2010. Thus, the Project site would increase city-wide
16 greenhouse gas emissions by at least 40%. The City has a stated goal of 798,693 total CO2e
17 emissions for the entire City by the year 2020. The WLC's estimated GHG emissions account for
18 nearly half of that goal.

19 27. The Project also exceeds by 37 times the quantitative GHG CEQA emissions threshold set by
20 South Coast Air Quality Management District ("SCAQMD,") of 10,000 metric tons for industrial
21 projects. The EIR makes the wholly unsupported conclusion that the Project's GHG emissions will be
22 below SCAQMD's threshold of significance, by determining that 98 percent of projected GHG
23 emissions do not require consideration because they are covered by the California Air Resources
24 Board (CARB) cap-and-trade program under California Assembly Bill 32 ("AB 32,"). On this basis,
25 the findings only consider the remaining 2 percent of GHG emissions in determining that the project
26 did not exceed SCAQMD's significance thresholds. The choice not to apply "capped," emissions to
27 the SCAQMD threshold conflicts with SCAQMD's policy objectives, Executive Order S-3-05,
28 CARB's 2014 Update to the Climate Change Scoping Plan, and conclusions reached by lead agencies

1 regarding recent similar projects of this scale and type in the SCAQMD. Moreover, the AB 32 cap
2 and trade program does not align with the time frame of the operational emissions from the Project
3 and is thus, irrelevant in the present circumstances. The cap and trade program is currently only set to
4 run through 2020, while the Project buildout is not projected to be completed until 2030. To depend
5 on the uncertain future of AB 32 constitutes deferred mitigation, which CEQA does not allow.

6 28. Petitioner's comments on the Findings pointed out Respondent's failure to demonstrate the
7 feasibility of proposed mitigation measures. The FEIR and the Findings provided no substantial
8 evidence to support its assumptions that (1) all construction equipment will meet United States
9 Environmental Protection Agency (USEPA) Tier 4 off-road emissions standards; and (2) that all
10 trucks entering the Project site will have engines model year 2007 or later.

11 29. In addition, in its comments on the Draft EIR and Findings, Petitioner pointed out
12 Respondents' failure to impose feasible mitigation measures. The Findings require the installation of
13 solar panels with the capacity equal to the peak daily demand for the ancillary office uses in each
14 warehouse building. It would be feasible, however, to incorporate solar panel installations to meet the
15 electrical needs from all buildings or even surpass needs and offset emissions from other aspects of
16 operation. Such mitigation measures were never considered.

17 30. The EIR also fails to impose mitigation measures based on hybrid technologies. Master
18 Response-3 dismissed these measures as infeasible because these technologies are in testing phases
19 and not currently commercially available. However, the determination of infeasibility is not
20 supported by substantial evidence in the record, because hybrid trucks are already commercially
21 available in the United States.

22 31. For all these reasons, it is clear that the EIR must be revised to reanalyze the significance of
23 emissions and all feasible and enforceable mitigation measures.

24 **Air Quality Impacts**

25 32. The determination in the EIR that the project will not have significant air quality impacts is
26 not supported by substantial evidence in the record. According to the EIR, using the current
27 California Office of Environmental Health Hazard Assessment (OEHHA) methodology to assess
28 diesel exhaust, the project would result in a significant cancer risks; however, the EIR goes on to find

1 that mitigation measures requiring all diesel trucks accessing the Project to use new technology diesel
2 exhaust (NTDE) are sufficient to result in a less than significant environmental impact. This
3 conclusion is based on a single recent study, the Advanced Collaborative Emissions Study (ACES)
4 and ignores California Air Resources Board's (CARB) and OEHHA's official findings that diesel
5 particulate matter is a known human carcinogen. This single study does not amount to "substantial
6 evidence,, and may not be relied upon to ignore the methodology of regulatory agencies with
7 appropriate jurisdiction and years of studies finding the contrary. CARB agrees. Finding the FEIR's
8 reliance on the ACES study so patently deficient, CARB took the highly unusual step of filing a
9 formal comment letter criticizing the FEIR and requesting preparation of a supplemental EIR to
10 remedy the obvious defects.

11 33. Even if there were sufficient evidence to support the finding that NTDE presents no cancer
12 risk (which there is not), the EIR fails to demonstrate the feasibility of constraining all trucks entering
13 the project site to engines emitting NTDE. Consequently, the air quality impacts from the project are
14 significant and all feasible mitigation measures must be imposed. The EIR fails to impose all feasible
15 mitigation measures, as discussed in Paragraphs 31-33.

16 34. Because the City failed to properly assess the risk and consider all feasible mitigation
17 measures prior to the issuance of the Statement of Overriding Considerations, the statement is
18 invalid. A supplemental EIR is required to properly calculate and disclose this impact under
19 California law, using duly adopted California health risk assessment methodology .

20 **Significant New Information and Cumulative Impacts**

21 35. In the Draft EIR, the City explained it would rely solely on the summary-of-projections
22 method to analyze the Project's cumulative impacts. In response to LIUNA's comments questioning
23 the accuracy of this method, the City noted that it had failed to take into account three additional
24 projects in the area, but made no changes to its projections. (Final Programmatic EIR, Volume 1-
25 Response to Comments, 663).

26 36. Since the Draft EIR, a fourth new logistics center has been proposed. On June 17, 2015, the
27 City circulated for public comment a Draft EIR for the Moreno Valley Logistics Center (MVLIC), a
28 warehouse and distribution center comprised of four buildings totaling close to 2 million square feet

1 of floor space located in the southern portion of the City of Moreno. The MVLC project, along with
2 the WLC Project, will generate thousands of daily diesel truck trips to and from the city. The City's
3 NOP for the MVLC constitutes significant new information that was not acknowledged or addressed
4 in the WLC EIR with respect to impacts on agricultural resources, biological resources, traffic, or air
5 quality. Respondents, however certified the Final EIR for the Project without addressing this
6 significant new information. Consequently, the EIR's cumulative impact analyses are inadequate
7 because they did not take into account the environmental impacts of other past, present and
8 reasonably foreseeable projects in the Project's vicinity. CEQA mandates that the City address this
9 significant new information and recirculate the EIR.

10 **Traffic Impacts**

11 37. The traffic impacts of the WLC Project are immense, resulting in 68,721 vehicle trips a day at
12 project buildout. At buildout the Project will be the single largest trip generator in the City of Moreno
13 Valley. The EIR's assessment of traffic impacts and adopted mitigation measures are flawed and fail
14 to comply with CEQA's requirements to fully mitigation all of its direct traffic impacts. First, the EIR
15 does not identify a number of traffic impacts and fails to resolve concerns about the project's impacts
16 on the regional highway system.

17 38. The EIR also fails to ensure adequate mitigation by relying on deferred mitigation measures.
18 Both CalTrans and the Riverside County Transportation Commission submitted comments just days
19 before the August 19 hearing asserting that it was unacceptable to condition payment of fair share on
20 Caltrans adopting a contribution program and the City making a future finding that such program
21 exists and is consistent with the FEIR. Because CEQA prohibits deferred mitigation, the City must
22 enter into an agreement with the necessary agencies or provide other assurances to ensure the
23 implementation of this mitigation measure, but the City has failed to do so. Moreover, the EIR fails to
24 ensure adequate mitigation by conditioning occupancy permits on payment of fair share contributions
25 to mitigate traffic impacts, not on completion of the traffic improvements necessary to reduce
26 impacts to less than significant level. Thus, the Project improperly relies on fee-based mitigation
27 without defining mitigation measures or ensuring adequate measures will be implemented.

28 **Biological Resources**

1 39. The EIR does not adequately analyze or mitigate biological impacts of the Project alone and
2 cumulatively with other logistics centers in the city on sensitive species, such as the burrowing owls
3 and the Los Angeles pocket mouse. The surveys on biological impacts employed improper,
4 unscientific and biased methodologies that failed to accurately identify those species inhabiting the
5 Project site. Moreover, the EIR's conclusion that the Project will not restrict the movement of
6 wildlife or impact wildlife corridors is not supported by substantial evidence in the record. These
7 concerns were raised in comments by Petitioners and others and Respondent's responses were
8 inadequate and failed to provide a good-faith and reasoned analysis in response.

9 **Urban Decay**

10 40. The EIR failed to analyze urban decay impacts. The development of a 40 million square foot
11 warehouse space, together with increased traffic, noise, and pollution will likely result in impacts
12 such as depressed property values, relocation of people and businesses, resulting in a downward
13 spiral of urban blight. Yet, the EIR contained a mere two-sentence section on urban decay. This
14 discussion referenced another section of the EIR, but that section contained no substantive analysis of
15 urban decay whatsoever. CEQA requires the City to analyze the urban decay impacts of the Project
16 alone and cumulatively, taking into account new and proposed logistics centers, and propose feasible
17 mitigation measures.

18 41. The EIR is also inadequate due to failure to meaningfully respond to comments raising these
19 concerns. The Response to Petitioner's comment simply asserted that no urban decay impacts would
20 result, pointing to the incorporation of "architectural design standards,, and distinguishing the project
21 from a garbage dump or a prison. There is no indication that this conclusion was the product of any
22 research or supported by substantial evidence on the record.

23 **Project History, Environmental Review, and Approval**

24 42. Due to the nature and size of this Project, the City determined an EIR was necessary without
25 conducting an Initial Study. On February 21, 2012, the City issued a notice of preparation of an EIR,
26 with the public comment period running from February 25 to March 26, 2012. On March 12, 2012,
27 the City held a public meeting to consider comments regarding the scope of the EIR.

1 43. The Draft EIR was issued on February 4, 2013 and a 63-day public comment period ran from
2 February 5 to April 8, 2013. LIUNA submitted extensive written and oral comments on the Draft
3 EIR, identifying numerous inadequacies in the document. LIUNA's comments included but were not
4 limited to the following:

- 5 a. The Draft EIR failed to establish an accurate baseline for hazardous materials and
6 biological resources by failing to conduct and/or rely on adequate surveys and/or
7 assessments.
- 8 b. The Draft EIR failed to adequately mitigate significant construction and operational air
9 quality impacts and to adequately analyze and mitigate significant indirect source
10 pollution.
- 11 c. The Draft EIR failed to adequately analyze and mitigate the Project's impacts on
12 biological resources.
- 13 d. The Draft EIR failed to adequately analyze and mitigate the Project's construction and
14 operational GHG emissions.
- 15 e. The Draft EIR's entire cumulative impacts analyses were based on outdated and
16 inaccurate summary of projections and failed to adequately analyze and mitigate the
17 Project's cumulative impacts for the following topics: (1) agricultural resources, (2)
18 biological resources, and (3) air quality.

19 44. In May 2015, the City issued its Final EIR for the Project, which included responses to public
20 comments and circulated the FEIR for 45 days.

21 45. On June 10, 2015, LIUNA submitted comments expressing concerns over traffic impacts, air
22 quality impacts, biological impacts, agricultural impacts, and urban decay. The City Council issued a
23 draft Facts, Findings and Statement of Overriding Considerations Regarding the Environmental
24 Effects and the Approval of the World Logistics Center Specific Plan ("Findings,,).

25 46. The Planning Commission, on June 30, 2015, considered all of the project applications and
26 recommended approval of each by a vote of 6-1 to the City Council.
27
28

1 47. On August 17, 2015 LIUNA issued comments on the Findings underscoring ongoing
2 concerns regarding the Project's significant GHG and air quality impacts. The comments also noted
3 the EIR's failure to consider cumulative impacts associated with the MVLC.

4 48. The City Council held a hearing on the Project on August 19, 2015. The City Council
5 approved the Project and certified the Final EIR by a 3-2 vote.

6 49. Pursuant to Public Resources Code § 21152, on August 24, 2015, Respondents prepared a
7 notice of determination. The notice of determination was filed by the County Clerk of Riverside
8 County on August 26, 2015.

9 50. Petitioner, other agencies, interested groups, and individuals participated in the administrative
10 proceedings leading up to Respondents' approval of the project and certification of the EIR, by
11 participating in hearings thereon and/or by submitting letters commenting on Respondents' Notice of
12 Preparation, Draft EIR and Final EIR. Petitioner attempted to persuade Respondents that their
13 environmental review did not comply with the requirements of CEQA, to no avail. Respondents'
14 approval of the Project and certification of the EIR is not subject to further administrative review by
15 Respondents. Petitioner has availed itself of all available administrative remedies for Respondents'
16 violation of CEQA.

17 51. Petitioner has no plain, speedy, or adequate remedy in the ordinary course of law within the
18 meaning of Code of Civil Procedure § 1086, in that Respondents' approval of the Project and
19 associated EIR is not otherwise reviewable in a manner that provides an adequate remedy.
20 Accordingly, Petitioner seeks this Court's review of Respondents' approval of the Project and
21 certification of their EIR, to rectify the violations of CEQA.

22 52. Respondents are threatening to proceed with implementation of the Project in the near future.
23 Implementation of the project will irreparably harm the environment in that Respondents will
24 commence with construction activities pursuant to the flawed Final EIR prepared for the Project
25 resulting in greenhouse gas emissions, traffic, air quality, and other environmental impacts to
26 Petitioner and its members. Preliminary and permanent injunctions should issue restraining
27 Respondents from proceeding with the Project relying upon the Final EIR.

1 *Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727.) Mitigation measures must be fully
2 enforceable through permit conditions, agreements or other legally binding instruments. (14 CCR §
3 15126.4(a)(2).)

4 56. Guidelines section 15088 requires the lead agency to evaluate comments submitted in
5 response to the draft EIR and prepare a written response. If the agency's position is at variance with
6 recommendations, the comments "must be addressed in detail giving reasons why specific comments
7 and suggestions were not accepted. There must be a good faith, reasoned analysis in response.
8 Conclusory statements unsupported by factual information will not suffice., (Guidelines section
9 15088(c); *See also, City of Long Beach v. Los Angeles Unified School Dist.*, 176 Cal. App. 4th 889,
10 904 (2009)).

11 57. If the project will have a significant effect on the environment, the agency may approve the
12 project only if it finds that it has "eliminated or substantially lessened all significant effects on the
13 environment where feasible., and that any unavoidable significant effects on the environment are
14 "acceptable due to overriding concerns., (Pub. Resources Code § 21081; 14 Cal. Code Regs. §
15 15092(b)(2)(A) & (B)). Where the Findings fail to impose all feasible mitigation measures, the
16 statement of overriding considerations is invalid. *See* CEQA Guidelines §§ 15126.4, 15091; *City of*
17 *Marina v. Board of Trustees of California State University* (Cal. 2006)39 Cal. 4th 341, 368-369.

18 58. An EIR must discuss significant cumulative impacts. (CEQA Guidelines section 15130(a).)
19 This requirement flows from CEQA section 21083, which requires a finding that a project may have
20 a significant effect on the environment if "the possible effects of a project are individually limited but
21 cumulatively considerable... 'Cumulatively considerable' means that the incremental effects of an
22 individual project are considerable when viewed in connection with the effects of past projects, the
23 effects of other current projects, and the effects of probable future projects., "Cumulative impacts.,
24 are defined as "two or more individual effects which, when considered together, are considerable or
25 which compound or increase other environmental impacts., CEQA Guidelines section 15355(a).
26 "[I]ndividual effects may be changes resulting from a single project or a number of separate
27 projects., (CEQA Guidelines section 15355(a)). Reasonably foreseeable projects include projects for
28 which environmental review by an agency has been initiated. *Friends of the Eel River v. Sonoma*

1 *County Water Agency* (2003) 108 Cal.App.4th 859, 870; *San Franciscans for Reasonable Growth v.*
2 *City & County of San Francisco* (1984) 151 Cal.App.3d 61, 74-77.

3 59. Where the agency adds “significant new information,, to an EIR prior to final EIR
4 certification, the lead agency must issue a new notice and must recirculate the revised EIR, or
5 portions of the EIR, for additional commentary and consultation. (Pub. Resources Code § 21092.1;
6 CEQA Guidelines § 15088.5). Pursuant to the Guidelines, significant new information can include
7 “changes in the project or environmental setting as well as additional data or other information.,,
8 (CEQA Guidelines § 15088.5(a)). New information is significant where it “deprives the public of a
9 meaningful opportunity to comment upon a substantial adverse environmental effect of the project or
10 a feasible way to mitigate or avoid such an effect....., (Id.) “‘Significant new information’ requiring
11 recirculation includes, for example, a disclosure showing that: (1) A new significant environmental
12 impact would result from the project or from a new mitigation measure proposed to be implemented.
13 [or] (2) A substantial increase in the severity of an environmental impact would result unless
14 mitigation measures are adopted that reduce the impact to a level of insignificance....., (Id.)

15 60. While the courts review an EIR using an “abuse of discretion,, standard, “the reviewing court
16 is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its
17 position. A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’,, (*Berkeley*
18 *Jets*, 91 Cal. App. 4th 1344, 1355 (emphasis added), quoting, *Laurel Heights Improvement Assn. v.*
19 *Regents of University of Cal.*, 47 Cal. 3d 376, 391 409, fn. 12 (1988)).

20 **FIRST CAUSE OF ACTION**

21 **(Violations of CEQA; EIR Does Not Comply With CEQA)**

22 61. Petitioner hereby realleges and incorporates paragraphs 1 through 63, inclusive.

23 62. CEQA requires the lead agency for a project to prepare an EIR that complies with the
24 requirements of the statute. The lead agency also must provide for public review and comment on the
25 project and associated environmental documentation. An EIR must provide sufficient environmental
26 analysis such that decision-makers can intelligently consider environmental consequences when
27 acting on proposed projects.

1 63. Respondents violated CEQA by certifying an EIR for the Project that is inadequate and fails
2 to comply with CEQA. Among other things, Respondents:

3 a. Failed to adequately disclose or analyze the Project's significant impacts on the
4 environment, including, but not limited to, the Project's impacts on GHG emissions, biological
5 resources, and air pollution from construction and operation including emissions of NOx and
6 particulate matter;

7 b. Failed to adequately mitigate Project GHG emissions, air pollution, and traffic
8 impacts;

9 c. Failed to consider cumulative impacts associated with other proposed logistics
10 centers in the area and failed to revise and recirculate the EIR in response to significant new
11 information that occurred after the release of the Project's draft EIR regarding the newly proposed
12 MVLC project and its environmental impacts and, as a result, failed to analyze significant cumulative
13 impacts resulting from the Project and the proposed MVLC project, including greenhouse gas
14 emissions and traffic impacts;

15 d. Failed to analyze urban decay impacts resulting from the project.

16 64. As a result of the foregoing defects, Respondents prejudicially abused their discretion by
17 certifying an EIR that does not comply with CEQA and by approving the Project in reliance thereon.
18 Accordingly, Respondents' certification of the EIR and approval of the Project must be set aside.

19 **SECOND CAUSE OF ACTION**

20 **(Violations of CEQA; Inadequate Findings)**

21 65. Petitioner hereby realleges and incorporates paragraphs 1 through 64, inclusive.

22 66. CEQA requires that a lead agency's findings for the approval of a project be supported by
23 substantial evidence in the administrative record. CEQA further requires that a lead agency provide
24 an explanation of how evidence in the record supports the conclusions it has reached.

25 67. Respondents violated CEQA by adopting findings that are inadequate as a matter of law in
26 that they are not supported by substantial evidence in the record, including, but not limited to, the
27 following:
28

1 a. The determination that the Project's greenhouse gas impacts would be less than
2 significant and/or that adopted mitigation measures would avoid or lessen the Project's
3 significant effects on the environment, without any consideration of "capped,,
4 emissions;

5 b. The determination that the Project's air quality impacts would be less than
6 significant with the adoption of mitigation measures requiring all diesel trucks
7 accessing the project to use new technology diesel exhaust;

8 c. The determination that the Project will not have significant impact on sensitive
9 species, especially the burrowing owl, based on improper and unscientific assessments
10 of species' presence in the Project site.

11 d. The determination that the Project will not have significant urban decay
12 impacts without providing any evidence in support.

13 c. The adoption of a statement of overriding considerations with respect to the
14 Project's significant impacts from operational and construction air emissions, without
15 analyzing and mandating all feasible mitigation measures; and

16 d. The adoption of a statement of overriding considerations with respect to the
17 Project's significant impacts from operational and construction air emissions while
18 including a number of mitigation measures that are discretionary and unenforceable.

19 68. As a result of the foregoing defects, Respondents prejudicially abused their discretion by
20 making determinations or adopting findings that do not comply with the requirements of CEQA and
21 approving the Project in reliance thereon. Accordingly, Respondents' certification of the EIR and
22 approval of the Project must be set aside.

23 **THIRD CAUSE OF ACTION**

24 **(Injunctive and Declaratory Relief Against Respondents and Real Parties in Interest)**

25 69. Petitioner hereby realleges and incorporates paragraphs 1 through 68, inclusive.

26 70. Petitioner has no plain, speedy, or adequate remedy at law. Unless enjoined, Respondents and
27 Real Parties will implement the Project despite their lack of compliance with CEQA. Petitioner will
28 suffer irreparable harm by Respondents' failure to take the required steps to protect the environment

1 and Real Parties' initiation of construction of the Project. Declaratory relief is appropriate under Code
2 of Civil Procedure § 1060, injunctive relief is appropriate under Code of Civil Procedure § 525 *et seq.*
3 and a writ of mandate is appropriate under Code of Civil Procedure § 1085 *et seq.* and 1094.5 *et seq.*
4 and under Public Resources Code § 21168.9, to prevent irreparable harm to the environment.

5 WHEREFORE, Petitioner prays for judgment as hereinafter set forth.

6 **PRAYER**

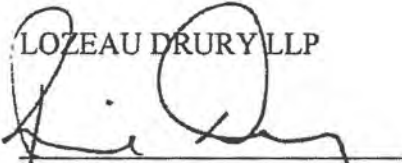
7 WHEREFORE, petitioner prays for the following relief:

- 8 1. For a stay of Respondents' decisions certifying the EIR and approving the Project
9 pending trial.
- 10 2. For a temporary restraining order and preliminary injunction restraining Respondents
11 and Real Parties in Interest from taking any actions to initiate construction of the Project relying in
12 whole or in part upon the EIR and Project approvals pending trial.
- 13 3. For a peremptory writ of mandate, permanent injunction and declaratory relief
14 directing:
 - 15 a. Respondents to vacate and set aside their certification of the EIR for the
16 Project and the decisions approving the Project and accompanying General
17 Plan amendments and zoning changes.
 - 18 b. Respondents to suspend all activity under the certification of the EIR and
19 approval of the Project that could result in any change or alteration to the
20 physical environment until Respondents have taken actions that may be
21 necessary to bring the certification and Project approvals into compliance with
22 CEQA.
 - 23 c. Respondents to prepare, circulate, and consider a new and legally adequate
24 EIR and otherwise to comply with CEQA in any subsequent action taken to
25 approve the Project.
- 26 4. For its costs of suit.
- 27 5. For an award of attorney fees pursuant to Code of Civil Procedure § 1021.5 and any
28 other applicable provisions of law or equity.

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6. For other equitable or legal relief that the Court considers just and proper.

Dated: September 21, 2015

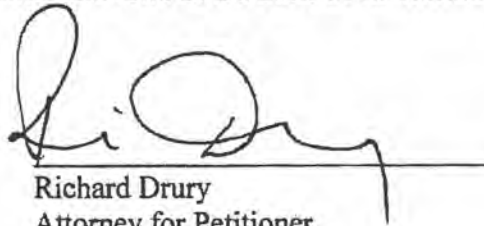
LOZEAU DRURY LLP

Richard Drury
Attorney for LIUNA Local Union No. 1184

VERIFICATION

1
2 I, Richard Drury, am an attorney for Petitioner Laborers International Union of North
3 America, Local Union 1184 in this action. I am verifying this Petition pursuant to California Code of
4 Civil Procedure section 446. Petitioner is located outside of the County of Alameda, where I have my
5 office. I have read the foregoing Petition. I am informed and believe that the matters in it are true and
6 on that ground allege that the matters stated in the Petition are true.

7
8 I declare under penalty of perjury under the laws of the State of California that the foregoing
9 is true and correct.

10 Date: September 21, 2015

11 
Richard Drury
Attorney for Petitioner

ATTACHMENT A



T 510 835-4200
F 510 835-4205

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michael@lozeaudrury.com

By U.S. Mail and E-mail

September 9, 2015

City of Moreno Valley
Mayor Jesse L. Molina and City Council
C/o City Clerk Jane Halstead
Moreno Valley City Hall
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552
Email: CityClerk@moval.org

**RE: Notice of Intent to File Suit Under the California Environmental Quality Act
Regarding the Certification of the Final Environmental Impact Report for
World Logistics Center Project (SCH # 2012021045)**

Dear Mayor Molina and City Clerk Halstead:

I am writing on behalf of Laborers' International Union of North America, Local Union 1184 ("LIUNA") and its members living in and around the City of Moreno Valley ("Petitioners"), regarding the World Logistics Center Project.

Please take notice, pursuant to Public Resources Code ("PRC") § 21167.5, that Petitioners intend to file a Verified Petition for Peremptory Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Petition") under the provisions of the California Environmental Quality Act ("CEQA"), PRC § 21000 et seq., against Respondents and Defendants City of Moreno Valley and City Council of Moreno Valley (collectively, "City"), in the Superior Court for the County of Riverside, challenging the August 19, 2015 certification of the FEIR and adoption of related CEQA findings for the Project by Respondents on the grounds that the EIR does not comply with CEQA in that it fails to adequately analyze and mitigate significant environmental impacts, and that the City's CEQA findings are not supported by substantial evidence in the record.

The petition being filed will seek the following relief:

1. For a stay of Respondents' decisions certifying the EIR and approving the Project pending trial.

2. For a temporary restraining order and preliminary injunction restraining Respondents and Real Parties in Interest from taking any actions to initiate construction of the Project relying in whole or in part upon the EIR and Project approvals pending trial.

3. For a peremptory writ of mandate, permanent injunction and declaratory relief directing:

- a. Respondents to vacate and set aside their certification of the EIR for the Project and the decisions approving the Project and accompanying General Plan amendments and zoning changes.
- b. Respondents and Real Parties in Interest to suspend all activity under the certification of the EIR and approval of the Project that could result in any change or alteration to the physical environment until Respondents have taken actions that may be necessary to bring the certification and Project approvals into compliance with CEQA.
- c. Respondents to prepare, circulate, and consider a new and legally adequate EIR and otherwise to comply with CEQA in any subsequent action taken to approve the Project.

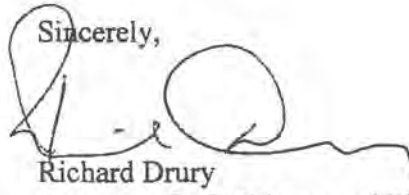
4. For its costs of suit.

5. For an award of attorney fees pursuant to Code of Civil Procedure § 1021.5 and any other applicable provisions of law or equity.

6. For other equitable or legal relief that the Court considers just and proper.

Petitioners urge Respondents to rescind their certification of the FEIR and related CEQA findings for the Project, to conduct the appropriate environmental review, and to prepare the appropriate CEQA document for the Project as required by law.

Sincerely,



Richard Drury
Attorneys for Petitioner and Plaintiff Laborers'
International Union of North America, Local Union
1184

cc: Interim City Attorney Steve Quintanilla

PROOF OF SERVICE

I, Theresa Rettinghouse, declare as follows:

I am a resident of the State of California, and employed in Oakland, California. I am over the age of 18 years and am not a party to the above-entitled action. My business address is 410 12th Street, Suite 250, Oakland, California, 94607.

On September 9, 2015, I served a copy of the foregoing document entitled:

**Notice of Intent to File Suit Under the California Environmental Quality Act
Regarding the Certification of the Final Environmental Impact Report for the
World Logistics Center Project (SCH # 2012021045)**

on the following parties:

City of Moreno Valley
Mayor Jesse L. Molina and City Council
City Clerk Jane Halstead
Interim City Attorney Steve Quintanilla
Moreno Valley City Hall
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552
Email: CityClerk@moval.org

<input checked="" type="checkbox"/>	BY MAIL. By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid for First Class mail, in the United States mail at Oakland, California addressed as set forth above.
<input checked="" type="checkbox"/>	BY EMAIL. By emailing the document to the City Clerk.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed September 9, 2015 at Oakland, California.


Theresa Rettinghouse

AMENDED

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

City of Moreno Valley, a municipality;
(Additional Parties Attachment form is attached)

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Laborers International Union of North America, Local Union No. 1184,
an organized labor union

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desachar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

CASE NUMBER
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Richard Drury/ Michael Lozeau, Lozeau Drury LLP, 410 12th St., Ste 250, Oakland, CA 94607, 510-836-4200

DATE: September 21, 2015
(Fecha)

Clerk, by _____, Deputy
(Secretario) _____ (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
4. by personal delivery on (date):

SHORT TITLE: Laborers Int'l Union of No. America v. City of Moreno Valley, et al	CASE NUMBER:
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INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

Plaintiff
 Defendant
 Cross-Complainant
 Cross-Defendant

City Council of the City of Moreno Valley; Moreno Valley Community Services District Board; HIGHLAND FAIRVIEW; HF PROPERTIES, a California general partnership; SUNNYMEAD PROPERTIES, a Delaware general partnership; THEODORE PROPERTIES PARTNERS, a Delaware general partnership; 13451 THEODORE LLC, a California limited liability company; HL PROPERTY PARTNERS, a Delaware general partnership; HIGHLAND FAIRVIEW OPERATING CO., a general partnership; HIGHLAND FAIRVIEW PROPERTIES, a California limited liability company; HIGHLAND FAIRVIEW COMMUNITIES, a Delaware limited liability company; HIGHLAND FAIRVIEW CONSTRUCTION, INC., a California corporation; HIGHLAND FAIRVIEW CORPORATE PARK ASSOCIATION, a California corporation.

15 SEP 23 PM 4: 50

1 Michael R. Lozeau (Bar No. 142893)
Richard T. Drury (Bar No. 163559)
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5 richard@lozeaudrury.com

6 Attorneys for Petitioner and Plaintiff

7 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

8 IN AND FOR THE COUNTY OF RIVERSIDE

9 LABORERS INTERNATIONAL UNION OF
NORTH AMERICA, LOCAL UNION NO.
10 1184, an organized labor union,

11 Petitioner and Plaintiff,

12 v.

13 CITY OF MORENO VALLEY, a
14 municipality; CITY COUNCIL OF THE
CITY OF MORENO VALLEY, and
15 MORENO VALLEY COMMUNITY
SERVICES DISTRICT, a dependent special
16 district of the City of Moreno Valley,

17 Respondents and Defendants;
18

19 HIGHLAND FAIRVIEW; HF PROPERTIES,
20 a California general partnership,
SUNNYMEAD PROPERTIES, a Delaware
21 general partnership; THEODORE
PROPERTIES PARTNERS, a Delaware
22 general partnership; 13451 THEODORE LLC,
23 a California limited liability company; HL
PROPERTY PARTNERS, a Delaware general
24 partnership; HIGHLAND FAIRVIEW
OPERATING CO., a Delaware general
25 partnership; HIGHLAND FAIRVIEW
26 PROPERTIES, a California limited liability
company; HIGHLAND FAIRVIEW
27 COMMUNITIES, a Delaware limited liability
company; HIGHLAND FAIRVIEW
28 CONSTRUCTION, INC., a California

Case No.: RIC1511279

VERIFIED FIRST AMENDED PETITION
FOR WRIT OF MANDATE AND FIRST
AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF

(California Environmental Quality Act
("CEQA,"), Pub. Res. Code § 21000, et seq.;
Code of Civil Procedure §§ 1094.5, 1085)

Dept: CEQA Case

1 corporation; and HIGHLAND FAIRVIEW
2 CORPORATE PARK ASSOCIATION, a
3 California corporation,

4 Real Parties in Interest and
5 Defendants.

6 Petitioner and Plaintiff Laborers International Union of North America, Local Union No.
7 1184 (hereinafter "Petitioner,, or "LIUNA,,) petitions this Court for a writ of mandate directed to
8 Respondents and Defendants City of Moreno Valley and City Council of the City of Moreno Valley
(collectively "Respondents,, or "City,,), and by this verified petition and complaint, allege as follows:

9 1. Petitioner brings this action to challenge the unlawful actions of Respondents in
10 approving: Resolution No. 2015-56 certifying the Final Environmental Impact Report ("Final EIR,,)
11 adopting the Findings and Statement of Overriding Considerations and approving the mitigation
12 monitoring program for the World Logistics Center (WLC) Specific Plan (the "Project,,); Resolution
13 No. 2015-57 approving the General Plan Amendment (PA12-0010); Resolution No. 2015-58
14 approving the Tentative Parcel Map; Resolution No. 2015-59 requesting that the Riverside County
15 Local Agency Formation Commission (LAFCO) initiate proceedings for the expansion of Moreno
16 Valley Boundaries; Ordinance No. 900 approving the Change of Zone (PA 12-0012), Specific Plan
17 (PA12-0013), and Pre-Zoning/Annexation (PA12-0014); Ordinance No. 901 approving the
18 Development Agreement (PA12-0011); and Resolution CSD 2015-29, requesting that LAFCO
19 initiate proceedings for the expansion of CSD's boundary in conjunction with the related annexation
20 requested by the City Council. These actions were taken by Respondents in violation of the
21 requirements of the California Environmental Quality Act ("CEQA,,), Public Resources Code §
22 21000 *et seq.*, and the CEQA Guidelines, title 14, California Code of Regulations, § 15000 *et seq.*

23 2. The Project is a proposed industrial park of up to 40.4 million square feet of "high-
24 cube logistics,, warehouse distribution uses and 200,000 square feet of warehousing-related uses on
25 2,610 acres in the City of Moreno Valley, in Riverside County, California.

26 3. Respondents prepared and relied on an EIR that falls well below CEQA's minimum
27 standards. The EIR is deficient in its discussion and analysis of the Project's significant impacts on
28 greenhouse gas ("GHG,,) emissions, traffic impacts, operational air pollution, construction pollution,

1 biological impacts and urban decay. The EIR also impermissibly fails to address significant new
2 information in its cumulative impacts analysis with respect to the proposed Moreno Valley Logistics
3 Center ("MVLC,") Project, another large warehouse and distribution facility proposed to be located in
4 Moreno Valley. These and other violations of CEQA were carefully documented during
5 administrative proceedings on the Project, but were never rectified by the City.

6 4. According to Respondents' EIR, the Project is expected to emit approximately
7 386,000 metric tons of carbon dioxide equivalents ("CO₂e,") per year (with mitigation). This
8 represents nearly half of the targeted annual GHG emissions for the entire City by the year 2020.
9 Nonetheless, the EIR finds that the GHG emissions for the project will be below the 10,000 metric
10 tons, the applicable threshold of significance. The EIR reaches this conclusion by ignoring 98% of
11 emissions because they are allegedly included in the AB 32 Cap and Trade Program. Moreover, the
12 FEIR adopts discretionary and unenforceable mitigation measures and fails to adopt other feasible
13 mitigation measures.

14 5. Similarly, the EIR's traffic impacts assessment fails to consider all traffic impacts. The
15 EIR also relies on deferred mitigation measures that depend on actions by other agencies without any
16 agreements in place to ensure such actions.

17 6. The EIR's conclusions regarding air pollution impacts are not supported by the record.
18 According to the EIR, mitigation measures requiring all diesel trucks accessing the project to use new
19 technology diesel exhaust (NTDE) are sufficient to result in a less than significant environmental
20 impact. First, the EIR fails to demonstrate the feasibility of constraining all trucks entering the project
21 site to those using NTDE. Even if it were feasible, the conclusion that NTDE does not cause cancer is
22 based on misinterpretation of a single recent study that is contrary to CARB's and OEHHA's official
23 findings that diesel particulate matter is a known human carcinogen.

24 7. The EIR fails to adequately consider cumulative impacts on air pollution, biological
25 resources, and traffic because it failed to consider all similar new and proposed projects in Moreno
26 Valley. Cumulative impacts associated with recent proposed warehousing facility, MVLC, were not
27 considered despite LIUNA's comments. Moreover, the EIR relied on improper and unscientific
28

1 methodologies for assessing biological impacts on sensitive species, such as the burrowing owls and
2 the Los Angeles pocket mouse, and completely failed to assess urban decay impacts.

3 8. Respondents prejudicially abused their discretion in certifying the EIR and approving
4 the Project. Accordingly, Respondents' approval of the Project and certification of the Final EIR
5 must be set aside.

6 PARTIES

7 9. Petitioner LIUNA is a labor organization representing thousands of employees who
8 are residents of Riverside County. LIUNA Local Union No. 1184 has numerous members residing
9 and working in and around the City of Moreno Valley and Riverside County. LIUNA Local Union
10 No. 1184's purposes include, but are not limited to, advocating on behalf of its members to ensure
11 safe workplace environments; working to protect recreational opportunities for its members to
12 improve its members quality of life when off the job; advocating to assure its members access to safe,
13 healthful, productive, and aesthetically and culturally pleasing surroundings on and off the job;
14 promoting environmentally sustainable businesses and development projects on behalf of its
15 members, including providing comments raising environmental concerns and benefits on proposed
16 development projects; advocating for changes to proposed development projects that will help to
17 achieve a balance between employment, the human population, and resource use which will permit
18 high standards of living and a wide sharing of life's amenities by its members as well as the general
19 public; advocating for steps to preserve important historic, cultural, and natural aspects of our
20 national heritage, and maintain, wherever possible, an environment which supports diversity and
21 variety of individual choice; and advocating on behalf of its members for programs, policies, and
22 development projects that promote not only good jobs but also a healthy natural environment and
23 working environment, including but not limited to advocating for changes to proposed projects and
24 policies that, if adopted, would reduce air, soil and water pollution, minimize harm to wildlife,
25 conserve wild places, reduce traffic congestion, reduce global warming impacts, and assure
26 compliance with applicable land use ordinances; and working to attain the widest range of beneficial
27 uses of the environment without degradation, risk to health or safety or other undesirable and
28 unintended consequences.

1 10. LIUNA Local Union No. 1184 and its members in Riverside County have several
2 distinct legally cognizable interests in this project. LIUNA Local Union No. 1184 members live,
3 work and recreate in Riverside County. LIUNA Local Union No. 1184 members may also be exposed
4 to construction and operational hazards from air pollution emissions that have not been adequately
5 analyzed or mitigated. The interests of LIUNA Local Union No. 1184 members are unique and will
6 be directly impacted by the project. Petitioner brings this action on behalf of itself, its members, and
7 the public interest.

8 11. LIUNA and its members have a direct and beneficial interest in Respondents'
9 compliance with laws bearing upon approval of the Project. These interests will be directly and
10 adversely affected by the Project, which violates provisions of law as set forth in this Petition and
11 would cause substantial harm to the natural environment and the quality of life in the surrounding
12 community. The maintenance and prosecution of this action will confer a substantial benefit on the
13 public by protecting the public from the environmental and other harms alleged herein. LIUNA and
14 its members actively participated in meetings hosted by the City leading up to the proposal and
15 adoption of the Project and Final EIR. LIUNA and its members submitted comments to Respondents
16 objecting to and commenting on the Project and the EIR.

17 12. Respondent and Defendant Moreno Valley is a general law city organized and existing
18 under and by virtue of laws of the State of California, and is situated in the County of Riverside.
19 Moreno Valley is the "lead agency,, for the Project for purposes of Public Resources Code § 21067,
20 and has principal responsibility for conducting environmental review for the Project and taking other
21 actions necessary to comply with CEQA.

22 13. Respondent City Council of Moreno Valley is the governing body of the City and is
23 ultimately responsible for reviewing and approving or denying the Project. The City Council and its
24 members are sued here in their official capacities.

25 14. Petitioner is informed and believes, and on that basis alleges, that Respondent Moreno
26 Valley Community Services District Board (CSD) is a governmental body within Moreno Valley,
27 established pursuant to the Community Services District Law (Cal. Gov. Code section 61000 et seq.).
28 CSD is a dependent special district of Moreno Valley, and the Moreno Valley City Council serves as

1 the board of Directors of the CSD. CSD, its staff, and contractors and consultants working under its
2 control and direction, approved a resolution, which was supported by the EIR's analysis, furthering
3 the Project.

4 15. On August 26, 2015, the City filed a Notice of Determination for the Project. The
5 August 26 Notice of Determination identifies "Highland Fairview,, as the applicant for the Project
6 and the only real party in interest pursuant to Public Resources Code § 21167.6.5.

7 16. Petitioner is informed and believes and thereupon alleges that one or more of the
8 following entities may comprise, in whole or in part, the "Highland Fairview,, identified in the Notice
9 of Determination and may have an interest in the Project: Highland Fairview, HF Properties, a
10 California general partnership, Sunnymead Properties, a Delaware general partnership; Theodore
11 Property Partners, a Delaware general partnership; 13451 Theodore LLC, a California limited
12 liability company; HL Property Partners, a Delaware general partnership; Highland Fairview
13 Operating Co., a general partnership, Highland Fairview Properties, a California limited liability
14 company; Highland Fairview Communities, a Delaware limited liability company; Highland Fairview
15 Construction, Inc., a California corporation; and Highland Fairview Corporate Park Association, a
16 California corporation.

17 **JURISDICTION AND VENUE AND CERTIFICATE OF COUNSEL AS TO PROPER**
18 **COURT BRANCH**

19 17. Pursuant to California Code of Civil Procedure section 1085 (alternatively section
20 1094.5) and Public Resources Code sections 21168.5 (alternatively section 21168) and 21168.9, this
21 Court has jurisdiction to issue a writ of mandate to set aside Respondents' decision to certify the EIR
22 and approve the Project. The Court has jurisdiction to issue declaratory relief pursuant to Code of
23 Civil Procedure § 1060 and injunctive relief pursuant to Code of Civil Procedure § 525 *et seq.*

24 18. Venue is proper in this Court because this action challenges acts done by a public
25 agency, and the causes of action alleged in this Petition and Complaint arose in the County of
26 Riverside. Venue also is proper in this Court because the City is located in the County of Riverside.
27 Pursuant to Superior Court Local Rule 3115 and Section (f) the Court's Administrative Order dated
28

1 January 5, 2015, this case is filed in the Riverside Historic Courthouse, 4050 Main Street, Riverside,
2 California, 92501, because the decisions and project at issue occurred in the City of Moreno Valley.

3 19. Petitioner has complied with the requirements of Public Resources Code section
4 21167.5 by serving a written notice of Petitioner's intention to commence this action on Respondents
5 on February 25, 2015. A copy of the written notice and proof of service is attached hereto as Exhibit
6 A.

7 20. Petitioner is complying with the requirements of Public Resources Code section
8 21167.6 by concurrently filing a notice of its election to prepare the record of administrative
9 proceedings relating to this action, a copy of which is attached hereto as Exhibit B.

10 21. Petitioner is complying with the requirements of Public Resources Code section
11 21167.7 by sending a copy of this Petition and Complaint to the California Attorney General on
12 September 22, 2015. A copy of the letter transmitting this Petition is attached hereto as Exhibit C.

13 22. Petitioner has performed any and all conditions precedent to filing this instant action
14 and has exhausted any and all available administrative remedies to the extent required by law.

15 23. Petitioner has no plain, speedy or adequate remedy in the course of ordinary law
16 unless this Court grants the requested writ of mandate to require Respondents to set aside their
17 certification of the EIR and approval of the Project. In the absence of such remedies, Respondents'
18 decision will remain in effect in violation of state law.

19
20 **STATEMENT OF FACTS**

21 **Project Background**

22 24. The Project site encompasses 3,818 acres of land located in Rancho Belago, the
23 eastern portion of the City of Moreno Valley, and is situated directly south of State Route 60 (SR-60)
24 with the Badlands area to the east and northeast, the Mount Russell Range to the southwest, and
25 Mystic Lake and the San Jacinto wildlife Area to the southeast. In addition to the Specific Plan area,
26 the Project site includes (1) 910 acres of the California Department of Fish and Wildlife (CDFW)
27 Conservation Buffer area to the south, (2) 194 acres of Public Facilities Lands area, and (3) 104 acres
28 of Off-site Improvement Area.

1 25. The Specific Plan being evaluated in this EIR covers 2,610 acres and proposes a
2 maximum of 40.4 million square feet of “high-cube logistics,, warehouse distribution uses classified
3 as “Logistics Development,, (LD) and 200,000 square feet (approximately 0.5%) of warehousing-
4 related uses classified as “Light Logistics,, (LL). The lands within the WLC Specific Plan that are
5 designated LL are existing rural lots, some containing residential uses, that will become “legal, non-
6 conforming uses,, once the WLC Specific Plan is approved. In addition, the LD designation includes
7 land for two special use areas; a fire station and a “logistics support,, facility for vehicle fueling and
8 sale of convenience goods (3,000 square feet is assumed for planning purposes for the “logistics
9 support,,).

10 26. The Project site primarily consists of active farmland. Approximately 3,389 acres, or 89
11 percent of the project area, are designated as Farmland of Local Importance and approximately 25
12 acres are designated as Unique Farmland. The site is also scattered with seven residences.

13 27. The Final EIR states that the purpose of the proposed Project is to provide a new master-
14 planned facility specializing in logistics warehouse distribution services, and asserts that the
15 completed Project will achieve, among others, the following objectives: (1) providing a major
16 logistics center to accommodate a portion of the ever-expanding trade volumes at the Ports of Los
17 Angeles and Long Beach; (2) creating a major logistics center with good regional and freeway
18 access; (3) creating substantial employment opportunities for the citizens of Moreno Valley and
19 surrounding communities; and (4) providing the land use designation and infrastructure plan
20 necessary to meet current market demands and to support the City’s Economic Development Action
21 Plan.

22 28. The EIR and Findings violate CEQA in a number of ways, including its analysis of GHG
23 emissions, failure to consider cumulative impacts of the MVLC project and other proposed logistics
24 centers with respect to GHG, air, biological, and traffic impacts, underestimating impacts from air
25 pollution, failure to analyze impacts from urban decay, and failure to adopt and/or make mandatory
26 all feasible mitigation measures for nitrogen oxides (NOx) and GHG emissions from the Project prior
27 to making a finding of overriding considerations,.

1 **Greenhouse Gas Emissions**

2 29. The Facts, Findings, and Statement of Overriding Considerations (“Findings,”) estimates that
3 annual GHG emissions from operations at the Project site will be 386,000 metric tons of carbon
4 dioxide equivalents (“CO2e,”) per year at buildout. This emissions figure is significant both by the
5 local air district’s and the City of Moreno Valley’s standards. The City of Moreno Valley generated
6 approximately 900,000 metric tons of CO2e in 2010. Thus, the Project site would increase city-wide
7 greenhouse gas emissions by at least 40%. The City has a stated goal of 798,693 total CO2e
8 emissions for the entire City by the year 2020. The WLC’s estimated GHG emissions account for
9 nearly half of that goal.

10 30. The Project also exceeds by 37 times the quantitative GHG CEQA emissions threshold set by
11 South Coast Air Quality Management District (“SCAQMD,”) of 10,000 metric tons for industrial
12 projects. The EIR makes the wholly unsupported conclusion that the Project’s GHG emissions will be
13 below SCAQMD’s threshold of significance, by determining that 98 percent of projected GHG
14 emissions do not require consideration because they are covered by the California Air Resources
15 Board (CARB) cap-and-trade program under California Assembly Bill 32 (“AB 32,”). On this basis,
16 the findings only consider the remaining 2 percent of GHG emissions in determining that the project
17 did not exceed SCAQMD’s significance thresholds. The choice not to apply “capped, emissions to
18 the SCAQMD threshold conflicts with SCAQMD’s policy objectives, Executive Order S-3-05,
19 CARB’s 2014 Update to the Climate Change Scoping Plan, and conclusions reached by lead agencies
20 regarding recent similar projects of this scale and type in the SCAQMD. Moreover, the AB 32 cap
21 and trade program does not align with the time frame of the operational emissions from the Project
22 and is thus, irrelevant in the present circumstances. The cap and trade program is currently only set to
23 run through 2020, while the Project buildout is not projected to be completed until 2030. To depend
24 on the uncertain future of AB 32 constitutes deferred mitigation, which CEQA does not allow.

25 31. Petitioner’s comments on the Findings pointed out Respondent’s failure to demonstrate the
26 feasibility of proposed mitigation measures. The FEIR and the Findings provided no substantial
27 evidence to support its assumptions that (1) all construction equipment will meet United States
28

1 Environmental Protection Agency (USEPA) Tier 4 off-road emissions standards; and (2) that all
2 trucks entering the Project site will have engines model year 2007 or later.

3 32. In addition, in its comments on the Draft EIR and Findings, Petitioner pointed out
4 Respondents' failure to impose feasible mitigation measures. The Findings require the installation of
5 solar panels with the capacity equal to the peak daily demand for the ancillary office uses in each
6 warehouse building. It would be feasible, however, to incorporate solar panel installations to meet the
7 electrical needs from all buildings or even surpass needs and offset emissions from other aspects of
8 operation. Such mitigation measures were never considered.

9 33. The EIR also fails to impose mitigation measures based on hybrid technologies. Master
10 Response-3 dismissed these measures as infeasible because these technologies are in testing phases
11 and not currently commercially available. However, the determination of infeasibility is not
12 supported by substantial evidence in the record, because hybrid trucks are already commercially
13 available in the United States.

14 34. For all these reasons, it is clear that the EIR must be revised to reanalyze the significance of
15 emissions and all feasible and enforceable mitigation measures.

16 **Air Quality Impacts**

17 35. The determination in the EIR that the project will not have significant air quality impacts is
18 not supported by substantial evidence in the record. According to the EIR, using the current
19 California Office of Environmental Health Hazard Assessment (OEHHA) methodology to assess
20 diesel exhaust, the project would result in a significant cancer risks; however, the EIR goes on to find
21 that mitigation measures requiring all diesel trucks accessing the Project to use new technology diesel
22 exhaust (NTDE) are sufficient to result in a less than significant environmental impact. This
23 conclusion is based on a single recent study, the Advanced Collaborative Emissions Study (ACES)
24 and ignores California Air Resources Board's (CARB) and OEHHA's official findings that diesel
25 particulate matter is a known human carcinogen. This single study does not amount to "substantial
26 evidence,, and may not be relied upon to ignore the methodology of regulatory agencies with
27 appropriate jurisdiction and years of studies finding the contrary. CARB agrees. Finding the FEIR's
28 reliance on the ACES study so patently deficient, CARB took the highly unusual step of filing a

1 formal comment letter criticizing the FEIR and requesting preparation of a supplemental EIR to
2 remedy the obvious defects.

3 36. Even if there were sufficient evidence to support the finding that NTDE presents no cancer
4 risk (which there is not), the EIR fails to demonstrate the feasibility of constraining all trucks entering
5 the project site to engines emitting NTDE. Consequently, the air quality impacts from the project are
6 significant and all feasible mitigation measures must be imposed. The EIR fails to impose all feasible
7 mitigation measures, as discussed in Paragraphs 31-33.

8 37. Because the City failed to properly assess the risk and consider all feasible mitigation
9 measures prior to the issuance of the Statement of Overriding Considerations, the statement is
10 invalid. A supplemental EIR is required to properly calculate and disclose this impact under
11 California law, using duly adopted California health risk assessment methodology .

12 **Significant New Information and Cumulative Impacts**

13 38. In the Draft EIR, the City explained it would rely solely on the summary-of-projections
14 method to analyze the Project's cumulative impacts. In response to LIUNA's comments questioning
15 the accuracy of this method, the City noted that it had failed to take into account three additional
16 projects in the area, but made no changes to its projections. (Final Programmatic EIR, Volume 1-
17 Response to Comments, 663).

18 39. Since the Draft EIR, a fourth new logistics center has been proposed. On June 17, 2015, the
19 City circulated for public comment a Draft EIR for the Moreno Valley Logistics Center (MVLC), a
20 warehouse and distribution center comprised of four buildings totaling close to 2 million square feet
21 of floor space located in the southern portion of the City of Moreno. The MVLC project, along with
22 the WLC Project, will generate thousands of daily diesel truck trips to and from the city. The City's
23 NOP for the MVLC constitutes significant new information that was not acknowledged or addressed
24 in the WLC EIR with respect to impacts on agricultural resources, biological resources, traffic, or air
25 quality. Respondents, however certified the Final EIR for the Project without addressing this
26 significant new information. Consequently, the EIR's cumulative impact analyses are inadequate
27 because they did not take into account the environmental impacts of other past, present and
28

1 reasonably foreseeable projects in the Project's vicinity. CEQA mandates that the City address this
2 significant new information and recirculate the EIR.

3 **Traffic Impacts**

4 40. The traffic impacts of the WLC Project are immense, resulting in 68,721 vehicle trips a day at
5 project buildout. At buildout, the Project will be the single largest trip generator in the City of
6 Moreno Valley. The EIR's assessment of traffic impacts and adopted mitigation measures are flawed
7 and fail to comply with CEQA's requirements to fully mitigation all of its direct traffic impacts. First,
8 the EIR does not identify a number of traffic impacts and fails to resolve concerns about the project's
9 impacts on the regional highway system.

10 41. The EIR also fails to ensure adequate mitigation by relying on deferred mitigation measures.
11 Both CalTrans and the Riverside County Transportation Commission submitted comments just days
12 before the August 19 hearing asserting that it was unacceptable to condition payment of fair share on
13 Caltrans adopting a contribution program and the City making a future finding that such program
14 exists and is consistent with the FEIR. Because CEQA prohibits deferred mitigation, the City must
15 enter into an agreement with the necessary agencies or provide other assurances to ensure the
16 implementation of this mitigation measure, but the City has failed to do so. Moreover, the EIR fails to
17 ensure adequate mitigation by conditioning occupancy permits on payment of fair share contributions
18 to mitigate traffic impacts, not on completion of the traffic improvements necessary to reduce
19 impacts to less than significant level. Thus, the Project improperly relies on fee-based mitigation
20 without defining mitigation measures or ensuring adequate measures will be implemented.

21 **Biological Resources**

22 42. The EIR does not adequately analyze or mitigate biological impacts of the Project alone or
23 cumulatively with other logistics centers in the city on sensitive species, such as the burrowing owls
24 and the Los Angeles pocket mouse. The surveys on biological impacts employed improper,
25 unscientific and biased methodologies that failed to accurately identify those species inhabiting the
26 Project site. Moreover, the EIR's conclusion that the Project will not restrict the movement of
27 wildlife or impact wildlife corridors is not supported by substantial evidence in the record. These
28

1 concerns were raised in comments by Petitioners and others and Respondent's responses were
2 inadequate and failed to provide a good-faith and reasoned analysis in response.

3 **Urban Decay**

4 43. The EIR failed to analyze urban decay impacts. The development of a 40 million square foot
5 warehouse space, together with increased traffic, noise, and pollution will likely result in impacts
6 such as depressed property values, relocation of people and businesses, resulting in a downward
7 spiral of urban blight. Yet, the EIR contained a mere two-sentence section on urban decay. This
8 discussion referenced another section of the EIR, but that section contained no substantive analysis of
9 urban decay whatsoever. CEQA requires the City to analyze the urban decay impacts of the Project
10 alone and cumulatively, taking into account new and proposed logistics centers, and propose feasible
11 mitigation measures.

12 44. The EIR is also inadequate due to failure to meaningfully respond to comments raising these
13 concerns. The Response to Petitioner's comment simply asserted that no urban decay impacts would
14 result, pointing to the incorporation of "architectural design standards,, and distinguishing the project
15 from a garbage dump or a prison. There is no indication that this conclusion was the product of any
16 research or supported by substantial evidence on the record.

17 **Project History, Environmental Review, and Approval**

18 45. Due to the nature and size of this Project, the City determined an EIR was necessary without
19 conducting an Initial Study. On February 21, 2012, the City issued a notice of preparation of an EIR,
20 with the public comment period running from February 25 to March 26, 2012. On March 12, 2012,
21 the City held a public meeting to consider comments regarding the scope of the EIR.

22 46. The Draft EIR was issued on February 4, 2013 and a 63-day public comment period ran from
23 February 5 to April 8, 2013. LIUNA submitted extensive written and oral comments on the Draft
24 EIR, identifying numerous inadequacies in the document. LIUNA's comments included but were not
25 limited to the following:

- 26 a. The Draft EIR failed to establish an accurate baseline for hazardous materials and
27 biological resources by failing to conduct and/or rely on adequate surveys and/or
28 assessments.

- 1 b. The Draft EIR failed to adequately mitigate significant construction and operational air
- 2 quality impacts and to adequately analyze and mitigate significant indirect source
- 3 pollution.
- 4 c. The Draft EIR failed to adequately analyze and mitigate the Project's impacts on
- 5 biological resources.
- 6 d. The Draft EIR failed to adequately analyze and mitigate the Project's construction and
- 7 operational GHG emissions.
- 8 e. The Draft EIR's entire cumulative impacts analyses were based on outdated and
- 9 inaccurate summary of projections and failed to adequately analyze and mitigate the
- 10 Project's cumulative impacts for the following topics: (1) agricultural resources, (2)
- 11 biological resources, and (3) air quality.

12 47. In May 2015, the City issued its Final EIR for the Project, which included responses to public
13 comments and circulated the FEIR for 45 days. On or around that time, the City Council issued a
14 draft Facts, Findings and Statement of Overriding Considerations Regarding the Environmental
15 Effects and the Approval of the World Logistics Center Specific Plan ("Findings,,).

16 48. On June 10, 2015, LIUNA submitted comments expressing concerns over traffic impacts, air
17 quality impacts, biological impacts, agricultural impacts, and urban decay.

18 49. The Planning Commission, on June 30, 2015, considered all of the project applications and
19 recommended approval of each by a vote of 6-1 to the City Council.

20 50. On August 17, 2015 LIUNA issued comments on the Findings underscoring ongoing
21 concerns regarding the Project's significant GHG and air quality impacts. The comments also noted
22 the EIR's failure to consider cumulative impacts associated with the MVLC.

23 51. The City Council held a hearing on the Project on August 19, 2015. The City Council
24 approved the Project and certified the Final EIR by a 3-2 vote.

25 52. Pursuant to Public Resources Code § 21152, on August 24, 2015, Respondents prepared a
26 notice of determination. The notice of determination was filed by the County Clerk of Riverside
27 County on August 26, 2015.

28

1 53. Petitioner, other agencies, interested groups, and individuals participated in the administrative
2 proceedings leading up to Respondents' approval of the project and certification of the EIR, by
3 participating in hearings thereon and/or by submitting letters commenting on Respondents' Notice of
4 Preparation, Draft EIR and Final EIR. Petitioner attempted to persuade Respondents that their
5 environmental review did not comply with the requirements of CEQA, to no avail. Respondents'
6 approval of the Project and certification of the EIR is not subject to further administrative review by
7 Respondents. Petitioner has availed itself of all available administrative remedies for Respondents'
8 violation of CEQA.

9 54. Petitioner has no plain, speedy, or adequate remedy in the ordinary course of law within the
10 meaning of Code of Civil Procedure § 1086, in that Respondents' approval of the Project and
11 associated EIR is not otherwise reviewable in a manner that provides an adequate remedy.
12 Accordingly, Petitioner seeks this Court's review of Respondents' approval of the Project and
13 certification of their EIR, to rectify the violations of CEQA.

14 55. Respondents are threatening to proceed with implementation of the Project in the near future.
15 Implementation of the project will irreparably harm the environment in that Respondents will
16 commence with construction activities pursuant to the flawed Final EIR prepared for the Project
17 resulting in greenhouse gas emissions, traffic, air quality, and other environmental impacts to
18 Petitioner and its members. Preliminary and permanent injunctions should issue restraining
19 Respondents from proceeding with the Project relying upon the Final EIR.

20 21 **LEGAL BACKGROUND**

22 56. CEQA (Pub. Resources Code § 21000 et seq.) requires that an agency analyze the potential
23 environmental impacts of the Project, i.e., its proposed actions, in an environmental impact report
24 ("EIR,") (except in certain limited circumstances). (See, e.g., PRC § 21100). The EIR is the very heart
25 of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652). "The 'foremost principle' in
26 interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest
27 possible protection to the environment within the reasonable scope of the statutory language.,,
28 (*Communities for a Better Environment v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 109).

1 57. CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the
2 public about the potential, significant environmental effects of a project. (14 Cal. Code Regs.
3 (“CEQA Guidelines,”) § 15002(a)(1)). “Its purpose is to inform the public and its responsible officials
4 of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects
5 not only the environment but also informed self-government.’, (*Citizens of Goleta Valley v. Bd. of*
6 *Supervisors* (1990) 52 Cal.3d 553, 564). The EIR has been described as “an environmental ‘alarm
7 bell’ whose purpose it is to alert the public and its responsible officials to environmental changes
8 before they have reached ecological points of no return., (*Berkeley Keep Jets Over the Bay v. Bd. of*
9 *Port Comrs.* (2001) 91 Cal.App.4th 1344, 1354 (“*Berkeley Jets,*)).

10 58. Second, CEQA requires public agencies to avoid or reduce environmental damage when
11 “feasible,, by requiring “environmentally superior,, alternatives and all feasible mitigation measures.
12 (CEQA Guidelines § 15002(a)(2) and (3); *Citizens of Goleta Valley* 52 Cal.3d at 564). Mitigation
13 measures must be fully enforceable and not deferred. (CEQA Guidelines § 15126.4; *Sundstrom v.*
14 *County of Mendocino* (1988) 202 Cal. App. 3d 296, 308-309). A mitigation measure, e.g., the
15 preparation of a remediation plan that is not part of the record, is not an adequate mitigation measure
16 under CEQA. (*Citizens for Responsible Equitable Environmental Development v. City of Chula Vista*
17 (2011) 197 Cal. App. 4th 327, 331-332). The EIR serves to provide agencies and the public with
18 information about the environmental impacts of a proposed project and to “identify ways that
19 environmental damage can be avoided or significantly reduced., (Guidelines § 15002(a)(2)). A
20 public agency may not rely on mitigation measures of uncertain efficacy or feasibility. (*Kings County*
21 *Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727.) Mitigation measures must be fully
22 enforceable through permit conditions, agreements or other legally binding instruments. (14 CCR §
23 15126.4(a)(2).)

24 59. Guidelines section 15088 requires the lead agency to evaluate comments submitted in
25 response to the draft EIR and prepare a written response. If the agency’s position is at variance with
26 recommendations, the comments “must be addressed in detail giving reasons why specific comments
27 and suggestions were not accepted. There must be a good faith, reasoned analysis in response.
28 Conclusory statements unsupported by factual information will not suffice., (Guidelines section

1 15088(c); *See also, City of Long Beach v. Los Angeles Unified School Dist.*, 176 Cal. App. 4th 889,
2 904 (2009)).

3 60. If the project will have a significant effect on the environment, the agency may approve the
4 project only if it finds that it has “eliminated or substantially lessened all significant effects on the
5 environment where feasible,, and that any unavoidable significant effects on the environment are
6 “acceptable due to overriding concerns., (Pub. Resources Code § 21081; 14 Cal. Code Regs. §
7 15092(b)(2)(A) & (B)). Where the Findings fail to impose all feasible mitigation measures, the
8 statement of overriding considerations is invalid. *See CEQA Guidelines §§ 15126.4, 15091; City of*
9 *Marina v. Board of Trustees of California State University* (Cal. 2006)39 Cal. 4th 341, 368-369.

10 61. An EIR must discuss significant cumulative impacts. (CEQA Guidelines section 15130(a).)
11 This requirement flows from CEQA section 21083, which requires a finding that a project may have
12 a significant effect on the environment if “the possible effects of a project are individually limited but
13 cumulatively considerable... ‘Cumulatively considerable’ means that the incremental effects of an
14 individual project are considerable when viewed in connection with the effects of past projects, the
15 effects of other current projects, and the effects of probable future projects., “Cumulative impacts.,
16 are defined as “two or more individual effects which, when considered together, are considerable or
17 which compound or increase other environmental impacts., CEQA Guidelines section 15355(a).
18 “[I]ndividual effects may be changes resulting from a single project or a number of separate
19 projects., (CEQA Guidelines section 15355(a)). Reasonably foreseeable projects include projects for
20 which environmental review by an agency has been initiated. *Friends of the Eel River v. Sonoma*
21 *County Water Agency* (2003) 108 Cal.App.4th 859, 870; *San Franciscans for Reasonable Growth v.*
22 *City & County of San Francisco* (1984) 151 Cal.App.3d 61, 74-77.

23 62. Where the agency adds “significant new information., to an EIR prior to final EIR
24 certification, the lead agency must issue a new notice and must recirculate the revised EIR, or
25 portions of the EIR, for additional commentary and consultation. (Pub. Resources Code § 21092.1;
26 CEQA Guidelines § 15088.5). Pursuant to the Guidelines, significant new information can include
27 “changes in the project or environmental setting as well as additional data or other information.,,
28 (CEQA Guidelines § 15088.5(a)). New information is significant where it “deprives the public of a

1 meaningful opportunity to comment upon a substantial adverse environmental effect of the project or
2 a feasible way to mitigate or avoid such an effect...., (*Id.*) “‘Significant new information’ requiring
3 recirculation includes, for example, a disclosure showing that: (1) A new significant environmental
4 impact would result from the project or from a new mitigation measure proposed to be implemented,
5 [or] (2) A substantial increase in the severity of an environmental impact would result unless
6 mitigation measures are adopted that reduce the impact to a level of insignificance....., (*Id.*)

7 63. While the courts review an EIR using an “abuse of discretion,, standard, “the reviewing court
8 is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its
9 position. A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’,, (*Berkeley*
10 *Jets*, 91 Cal. App. 4th 1344, 1355 (emphasis added), quoting, *Laurel Heights Improvement Assn. v.*
11 *Regents of University of Cal.*, 47 Cal. 3d 376, 391 409, fn. 12 (1988)).

12 **FIRST CAUSE OF ACTION**

13 **(Violations of CEQA; EIR Does Not Comply With CEQA)**

14 64. Petitioner hereby realleges and incorporates paragraphs 1 through 63, inclusive.

15 65. CEQA requires the lead agency for a project to prepare an EIR that complies with the
16 requirements of the statute. The lead agency also must provide for public review and comment on the
17 project and associated environmental documentation. An EIR must provide sufficient environmental
18 analysis such that decision-makers can intelligently consider environmental consequences when
19 acting on proposed projects.

20 66. Respondents violated CEQA by certifying an EIR for the Project that is inadequate and fails
21 to comply with CEQA. Among other things, Respondents:

22 a. Failed to adequately disclose or analyze the Project’s significant impacts on the
23 environment, including, but not limited to, the Project’s impacts on GHG emissions, biological
24 resources, and air pollution from construction and operation including emissions of NOx and
25 particulate matter;

26 b. Failed to adequately mitigate Project GHG emissions, air pollution, and traffic
27 impacts;

28 c. Failed to consider cumulative impacts associated with other proposed logistics

1 centers in the area and failed to revise and recirculate the EIR in response to significant new
2 information that occurred after the release of the Project's draft EIR regarding the newly proposed
3 MVLC project and its environmental impacts and, as a result, failed to analyze significant cumulative
4 impacts resulting from the Project and the proposed MVLC project, including greenhouse gas
5 emissions and traffic impacts;

6 d. Failed to analyze urban decay impacts resulting from the project.

7 67. As a result of the foregoing defects, Respondents prejudicially abused their discretion by
8 certifying an EIR that does not comply with CEQA and by approving the Project in reliance thereon.
9 Accordingly, Respondents' certification of the EIR and approval of the Project must be set aside.

10 **SECOND CAUSE OF ACTION**

11 **(Violations of CEQA; Inadequate Findings)**

12 68. Petitioner hereby realleges and incorporates paragraphs 1 through 67, inclusive.

13 69. CEQA requires that a lead agency's findings for the approval of a project be supported by
14 substantial evidence in the administrative record. CEQA further requires that a lead agency provide
15 an explanation of how evidence in the record supports the conclusions it has reached.

16 70. Respondents violated CEQA by adopting findings that are inadequate as a matter of law in
17 that they are not supported by substantial evidence in the record, including, but not limited to, the
18 following:

19 a. The determination that the Project's greenhouse gas impacts would be less than
20 significant and/or that adopted mitigation measures would avoid or lessen the Project's
21 significant effects on the environment, without any consideration of "capped,"
22 emissions;

23 b. The determination that the Project's air quality impacts would be less than
24 significant with the adoption of mitigation measures requiring all diesel trucks
25 accessing the project to use new technology diesel exhaust;

26 c. The determination that the Project will not have significant impact on sensitive
27 species, especially the burrowing owl, based on improper and unscientific assessments
28

1 of species' presence in the Project site.

2 d. The determination that the Project will not have significant urban decay
3 impacts without providing any evidence in support.

4 c. The adoption of a statement of overriding considerations with respect to the
5 Project's significant impacts from operational and construction air emissions, without
6 analyzing and mandating all feasible mitigation measures; and

7 d. The adoption of a statement of overriding considerations with respect to the
8 Project's significant impacts from operational and construction air emissions while
9 including a number of mitigation measures that are discretionary and unenforceable.

10 71. As a result of the foregoing defects, Respondents prejudicially abused their discretion by
11 making determinations or adopting findings that do not comply with the requirements of CEQA and
12 approving the Project in reliance thereon. Accordingly, Respondents' certification of the EIR and
13 approval of the Project must be set aside.

14 **THIRD CAUSE OF ACTION**

15 **(Injunctive and Declaratory Relief Against Respondents and Real Parties in Interest)**

16 72. Petitioner hereby realleges and incorporates paragraphs 1 through 71, inclusive.

17 73. Petitioner has no plain, speedy, or adequate remedy at law. Unless enjoined, Respondents and
18 Real Parties will implement the Project despite their lack of compliance with CEQA. Petitioner will
19 suffer irreparable harm by Respondents' failure to take the required steps to protect the environment
20 and Real Parties' initiation of construction of the Project. Declaratory relief is appropriate under Code
21 of Civil Procedure § 1060, injunctive relief is appropriate under Code of Civil Procedure § 525 *et seq.*
22 and a writ of mandate is appropriate under Code of Civil Procedure § 1085 *et seq.* and 1094.5 *et seq.*
23 and under Public Resources Code § 21168.9, to prevent irreparable harm to the environment.

24 WHEREFORE, Petitioner prays for judgment as hereinafter set forth.

25 **PRAYER**

26 WHEREFORE, petitioner prays for the following relief:

27 1. For a stay of Respondents' decisions certifying the EIR and approving the Project
28 pending trial.

1 2. For a temporary restraining order and preliminary injunction restraining Respondents
2 and Real Parties in Interest from taking any actions to initiate construction of the Project relying in
3 whole or in part upon the EIR and Project approvals pending trial.

4 3. For a peremptory writ of mandate, permanent injunction and declaratory relief
5 directing:

- 6 a. Respondents to vacate and set aside their certification of the EIR for the
7 Project and the decisions approving the Project and accompanying General
8 Plan amendments and zoning changes.
- 9 b. Respondents to suspend all activity under the certification of the EIR and
10 approval of the Project that could result in any change or alteration to the
11 physical environment until Respondents have taken actions that may be
12 necessary to bring the certification and Project approvals into compliance with
13 CEQA.
- 14 c. Respondents to prepare, circulate, and consider a new and legally adequate
15 EIR and otherwise to comply with CEQA in any subsequent action taken to
16 approve the Project.

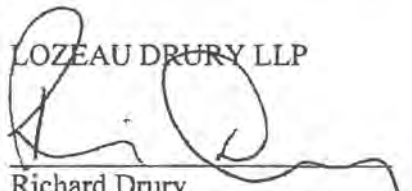
17 4. For its costs of suit.

18 5. For an award of attorney fees pursuant to Code of Civil Procedure § 1021.5 and any
19 other applicable provisions of law or equity.

20 6. For other equitable or legal relief that the Court considers just and proper.

21
22 Dated: September 22, 2015

LOZEAU DRURY LLP


Richard Drury
Attorney for LIUNA Local Union No. 1184


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VERIFICATION

I, Richard Drury, am an attorney for Petitioner Laborers International Union of North America, Local Union 1184 in this action. I am verifying this Petition pursuant to California Code of Civil Procedure section 446. Petitioner is located outside of the County of Alameda, where I have my office. I have read the foregoing Petition. I am informed and believe that the matters in it are true and on that ground allege that the matters stated in the Petition are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: September 22, 2015



Richard Drury
Attorney for Petitioner

EXHIBIT A



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F 510.838.4205

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Oakland, Ca 94607

www.lozeaudrury.com
michael@lozeaudrury.com

By U.S. Mail and E-mail

September 9, 2015

City of Moreno Valley
Mayor Jesse L. Molina and City Council
C/o City Clerk Jane Halstead
Moreno Valley City Hall
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552
Email: CityClerk@moval.org

**RE: Notice of Intent to File Suit Under the California Environmental Quality Act
Regarding the Certification of the Final Environmental Impact Report for
World Logistics Center Project (SCH # 2012021045)**

Dear Mayor Molina and City Clerk Halstead:

I am writing on behalf of Laborers' International Union of North America, Local Union 1184 ("LIUNA") and its members living in and around the City of Moreno Valley ("Petitioners"), regarding the World Logistics Center Project.

Please take notice, pursuant to Public Resources Code ("PRC") § 21167.5, that Petitioners intend to file a Verified Petition for Peremptory Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Petition") under the provisions of the California Environmental Quality Act ("CEQA"), PRC § 21000 et seq., against Respondents and Defendants City of Moreno Valley and City Council of Moreno Valley (collectively, "City"), in the Superior Court for the County of Riverside, challenging the August 19, 2015 certification of the FEIR and adoption of related CEQA findings for the Project by Respondents on the grounds that the EIR does not comply with CEQA in that it fails to adequately analyze and mitigate significant environmental impacts, and that the City's CEQA findings are not supported by substantial evidence in the record.

The petition being filed will seek the following relief:

1. For a stay of Respondents' decisions certifying the EIR and approving the Project pending trial.

2. For a temporary restraining order and preliminary injunction restraining Respondents and Real Parties in Interest from taking any actions to initiate construction of the Project relying in whole or in part upon the EIR and Project approvals pending trial.

3. For a peremptory writ of mandate, permanent injunction and declaratory relief directing:

- a. Respondents to vacate and set aside their certification of the EIR for the Project and the decisions approving the Project and accompanying General Plan amendments and zoning changes.
- b. Respondents and Real Parties in Interest to suspend all activity under the certification of the EIR and approval of the Project that could result in any change or alteration to the physical environment until Respondents have taken actions that may be necessary to bring the certification and Project approvals into compliance with CEQA.
- c. Respondents to prepare, circulate, and consider a new and legally adequate EIR and otherwise to comply with CEQA in any subsequent action taken to approve the Project.

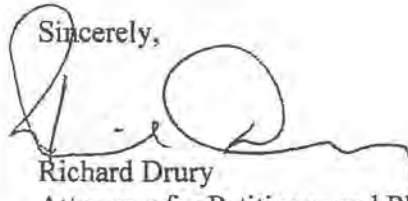
4. For its costs of suit.

5. For an award of attorney fees pursuant to Code of Civil Procedure § 1021.5 and any other applicable provisions of law or equity.

6. For other equitable or legal relief that the Court considers just and proper.

Petitioners urge Respondents to rescind their certification of the FEIR and related CEQA findings for the Project, to conduct the appropriate environmental review, and to prepare the appropriate CEQA document for the Project as required by law.

Sincerely,



Richard Drury
Attorneys for Petitioner and Plaintiff Laborers'
International Union of North America, Local Union
1184

cc: Interim City Attorney Steve Quintanilla

PROOF OF SERVICE

I, Theresa Rettinghouse, declare as follows:

I am a resident of the State of California, and employed in Oakland, California. I am over the age of 18 years and am not a party to the above-entitled action. My business address is 410 12th Street, Suite 250, Oakland, California, 94607.

On September 9, 2015, I served a copy of the foregoing document entitled:

Notice of Intent to File Suit Under the California Environmental Quality Act Regarding the Certification of the Final Environmental Impact Report for the World Logistics Center Project (SCH # 2012021045)

on the following parties:

City of Moreno Valley
Mayor Jesse L. Molina and City Council
City Clerk Jane Halstead
Interim City Attorney Steve Quintanila
Moreno Valley City Hall
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552
Email: CityClerk@moval.org

<input checked="" type="checkbox"/>	BY MAIL. By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid for First Class mail, in the United States mail at Oakland, California addressed as set forth above.
<input checked="" type="checkbox"/>	BY EMAIL. By emailing the document to the City Clerk.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed September 9, 2015 at Oakland, California.



Theresa Rettinghouse

EXHIBIT B

CITY CLERK
MORENO VALLEY
RECEIVED

15 SEP 23 PM 4: 51

1 Michael R. Lozeau (Cal. Bar No. 142893)
2 Richard T. Drury (Cal. Bar No. 163559)
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4 410 12th Street, Suite 250
5 Oakland, CA 94607
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7 Fax: (510) 836-4205
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9 richard@lozeaudrury.com

10 Attorneys for Petitioners

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF RIVERSIDE

13 LABORERS INTERNATIONAL UNION OF
14 NORTH AMERICA, LOCAL UNION NO.
15 1184, an organized labor union,

16 Petitioner,

17 v.

18 CITY OF MORENO VALLEY, a municipality;
19 CITY COUNCIL OF THE CITY OF MORENO
20 VALLEY, and MORENO VALLEY
21 COMMUNITY SERVICES DISTRICT, a
22 dependent special district of the City of Moreno
23 Valley,

24 Respondents and Defendants;

CASE NO.: RIC1511279

**PETITIONERS' NOTICE OF INTENT
TO PREPARE ADMINISTRATIVE
RECORD**

(California Environmental Quality Act
("CEQA"), Pub. Res. Code § 21000, et seq.;
Code of Civil Procedure §§ 1094.5, 1085)

Dept: CEQA Case

25 HIGHLAND FAIRVIEW; HF PROPERTIES, a
26 California general partnership, SUNNYMEAD
27 PROPERTIES, a Delaware general partnership;
28 THEODORE PROPERTIES PARTNERS, a
Delaware general partnership; 13451
THEODORE LLC, a California limited liability
company; HL PROPERTY PARTNERS, a
Delaware general partnership; HIGHLAND
FAIRVIEW OPERATING CO., a Delaware
general partnership; HIGHLAND FAIRVIEW
PROPERTIES, a California limited liability
company; HIGHLAND FAIRVIEW
COMMUNITIES, a Delaware limited liability
company; HIGHLAND FAIRVIEW
CONSTRUCTION, INC., a California

1 corporation; and HIGHLAND FAIRVIEW
2 CORPORATE PARK ASSOCIATION, a
California corporation,

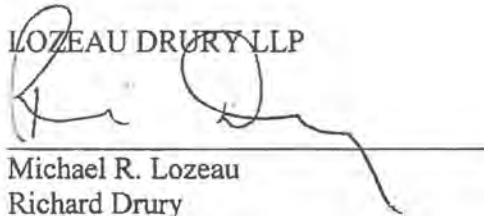
3 Real Parties in Interest and
4 Defendants..

5 Pursuant to Public Resources Code § 21167(b)(2), Petitioners LABORERS'
6 INTERNATIONAL UNION OF NORTH AMERICA LOCAL UNION NO. 1184, an organized
7 labor union ("Petitioners") hereby notify all parties that Petitioners elect to prepare the
8 administrative record relating to the above-captioned action relating to certification of the EIR for
9 and approval of the World Logistics Center Project by Respondents CITY OF MORENO
10 VALLEY, a municipality; CITY COUNCIL OF THE CITY OF MORENO VALLEY, and
11 MORENO VALLEY COMMUNITY SERVICES DISTRICT, a dependent special district of the
12 City of Moreno Valley ("Respondents").

13 Respondents and Real Parties in Interest are directed not to prepare the administrative record
14 for this action and not to expend any resources to prepare said administrative record.

15
16 September 22, 2015

LOZEAU DRURY LLP

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19 Michael R. Lozeau
Richard Drury

20 Attorneys for Petitioners
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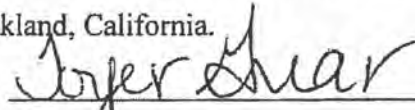
I, Toyer Gear, declare as follows:

I am a resident of the State of California, and employed in Oakland, California. I am over the age of 18 years and am not a party to the above-entitled action. My business address is 410 12th Street, Suite 250, Oakland, CA 94607.

On September 23, 2015 I served the **PETITIONERS' NOTICE OF INTENT TO PREPARE ADMINISTRATIVE RECORD** by placing a true copy thereof in an envelope, sealing, and placing it for collection and mailing following ordinary business practices addressed as follows:

Office of the Attorney General 1300 "P" Street Sacramento, CA 95814-2919	
--	--

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed September 23, 2015 at Oakland, California.



Toyer Gear

EXHIBIT C

CITY CLERK
MORENO VALLEY
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15 SEP 23 PM 4: 51

1 Michael R. Lozeau (Cal. Bar No. 142893)
2 Richard T. Drury (Cal. Bar No. 163559)
3 LOZEAU | DRURY LLP
4 410 12th Street, Suite 250
5 Oakland, CA 94607
6 Tel: (510) 836-4200
7 Fax: (510) 836-4205
8 E-mail: michael@lozeaudrury.com
9 richard@lozeaudrury.com

10 Attorneys for Petitioners

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF RIVERSIDE

13 LABORERS INTERNATIONAL UNION OF
14 NORTH AMERICA, LOCAL UNION NO.
15 1184, an organized labor union,

16 Petitioner,

17 v.

18 CITY OF MORENO VALLEY, a municipality;
19 CITY COUNCIL OF THE CITY OF MORENO
20 VALLEY, and MORENO VALLEY
21 COMMUNITY SERVICES DISTRICT, a
22 dependent special district of the City of Moreno
23 Valley,

24 Respondents and Defendants;

CASE NO.: RIC1511279

**NOTICE TO ATTORNEY GENERAL -
VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

(California Environmental Quality Act
("CEQA"), Pub. Res. Code § 21000, et seq.;
Code of Civil Procedure §§ 1094.5, 1085)

Dept: CEQA Case

25 HIGHLAND FAIRVIEW; HF PROPERTIES, a
26 California general partnership, SUNNYMEAD
27 PROPERTIES, a Delaware general partnership;
28 THEODORE PROPERTIES PARTNERS, a
Delaware general partnership; 13451
THEODORE LLC, a California limited liability
company; HL PROPERTY PARTNERS, a
Delaware general partnership; HIGHLAND
FAIRVIEW OPERATING CO., a Delaware
general partnership; HIGHLAND FAIRVIEW
PROPERTIES, a California limited liability
company; HIGHLAND FAIRVIEW
COMMUNITIES, a Delaware limited liability
company; HIGHLAND FAIRVIEW
CONSTRUCTION, INC., a California

1 corporation; and HIGHLAND FAIRVIEW
2 CORPORATE PARK ASSOCIATION, a
3 California corporation,

4 Real Parties in Interest and
5 Defendants.

6 To the Attorney General of the State of California:

7 1. PLEASE TAKE NOTICE, pursuant to Public Resources Code § 21167.7 and Code
8 of Civil Procedure § 388, that on September 21, 2015, Petitioner LABORERS' INTERNATIONAL
9 UNION OF NORTH AMERICA LOCAL UNION NO. 1184 ("Petitioner") filed a Verified Petition
10 for Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Petition") against
11 Respondents CITY OF MORENO VALLEY, CITY COUNCIL OF THE CITY OF MORENO
12 VALLEY, and MORENO VALLEY COMMUNITY SERVICES DISTRICT ("Respondents") and
13 Real Parties in Interest HIGHLAND FAIRVIEW; HF PROPERTIES, a California general
14 partnership, SUNNYMEAD PROPERTIES, a Delaware general partnership; THEODORE
15 PROPERTIES PARTNERS, a Delaware general partnership; 13451 THEODORE LLC, a
16 California limited liability company; HL PROPERTY PARTNERS, a Delaware general
17 partnership; HIGHLAND FAIRVIEW OPERATING CO., a Delaware general partnership;
18 HIGHLAND FAIRVIEW PROPERTIES, a California limited liability company; HIGHLAND
19 FAIRVIEW COMMUNITIES, a Delaware limited liability company; HIGHLAND FAIRVIEW
20 CONSTRUCTION, INC., a California corporation; and HIGHLAND FAIRVIEW CORPORATE
21 PARK ASSOCIATION, a California corporation in Riverside County Superior Court.

22 The Petition alleges, *inter alia*, violations of the California Environmental Quality Act
23 ("CEQA"), Public Resources Code § 21000 et seq., in connection with Respondents' certification of
24 the Environmental Impact Report ("EIR") for the World Logistics Center Project. A copy of the
25 Petition is attached to this Notice.

26 September 22, 2015

27 LOZEAU DRURY LLP



28 Richard Drury
Attorneys for Petitioner

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3 **PROOF OF SERVICE**

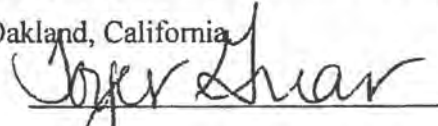
4 I, Toyer Grear, declare as follows:

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6 the age of 18 years and am not a party to the above-entitled action. My business address is 410 12th
7 Street, Suite 250, Oakland, CA 94607.

8 On September 23, 2015 I served the **NOTICE TO ATTORNEY GENERAL - VERIFIED**
9 **PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND**
10 **INJUNCTIVE RELIEF** by placing a true copy thereof in an envelope, sealing, and placing it for
11 collection and mailing following ordinary business practices addressed as follows:

12 13 Office of the Attorney General 14 1300 "I" Street 15 Sacramento, CA 95814-2919	
---	--

16 I declare under penalty of perjury that the foregoing is true and correct, and that this
17 declaration was executed September 23, 2015 at Oakland, California

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19 Toyer Grear
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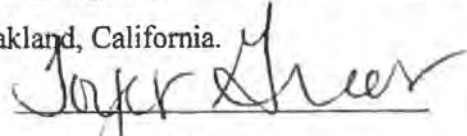
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On September 23, 2015 I served the **VERIFIED FIRST AMENDED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** by placing a true copy thereof in an envelope, sealing, and placing it for collection and mailing following ordinary business practices addressed as follows:

Office of the Attorney General 1300 "I" Street Sacramento, CA 95814-2919	
--	--

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed September 23, 2015 at Oakland, California.


Toyer Grear

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

- BANNING** 135 N. Alessandro Rd., Banning, CA 92220
- BLYTHE** 265 N. Broadway, Blythe, CA 92225
- HEMET** 880 N. State St., Hemet, CA 92543
- MORENO VALLEY** 13800 Heacock St., Ste. D201, Moreno Valley, CA 92553

- MURRIETA** 30755-D Auld Rd., Suite 1226, Murrieta, CA 92563
- PALM SPRINGS** 3255 E. Tahquitz Canyon Way, Palm Springs, CA 92262
- RIVERSIDE** 4050 Main St., Riverside, CA 92501
- TEMECULA** 41002 County Center Dr., #100, Temecula, CA 92591

RI-030

<p><small>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address)</small> Michael R. Lozeau (CBN 142893) / Richard T. Drury (CBN 142893) Lozeau Drury LLP 410 12th Street, Suite 250 Oakland, CA 94607</p> <p>TELEPHONE NO: 510-836-4200 FAX NO (Optional): 510-836-4205 E-MAIL ADDRESS (Optional): michael@lozeaudrury.com / richard@lozeaudrury.com ATTORNEY FOR (Name): Petitioners and Plaintiffs</p> <hr/> <p align="center">PLAINTIFF/PETITIONER: Laborers International Union of North America</p> <hr/> <p align="center">DEFENDANT/RESPONDENT: City of Moreno Valley, et al</p>	<p align="center"><small>FOR COURT USE ONLY</small></p> <p align="center">FILED</p> <p align="center">Superior Court Of California County Of Riverside 09/22/2015 A.RANGEL BY FAX</p> <hr/> <p align="center">CASE NUMBER: RIC1511279</p>
CERTIFICATE OF COUNSEL	

The undersigned certifies that this matter should be tried or heard in the court identified above for the reasons specified below:

- The action arose in the zip code of: 92553
- The action concerns real property located in the zip code of: _____
- The Defendant resides in the zip code of: _____

For more information on where actions should be filed in the Riverside County Superior Courts, please refer to Local Rule 1.0015 at www.riverside.courts.ca.gov.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date September 21, 2015

Richard T. Drury
(TYPE OR PRINT NAME OF ATTORNEY PARTY MAKING DECLARATION)

▶ _____
(SIGNATURE)

CITY CLERK
MORENO VALLEY
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15 SEP 23 PM 4: 51

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2 Richard T. Drury (Cal. Bar No. 163559)
3 LOZEAU | DRURY LLP
4 410 12th Street, Suite 250
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6 Tel: (510) 836-4200
7 Fax: (510) 836-4205
8 E-mail: michael@lozeaudrury.com
9 richard@lozeaudrury.com

10 Attorneys for Petitioners

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF RIVERSIDE

13 LABORERS INTERNATIONAL UNION OF
14 NORTH AMERICA, LOCAL UNION NO.
15 1184, an organized labor union,

16 Petitioner,

17 v.

18 CITY OF MORENO VALLEY, a municipality;
19 CITY COUNCIL OF THE CITY OF MORENO
20 VALLEY, and MORENO VALLEY
21 COMMUNITY SERVICES DISTRICT, a
22 dependent special district of the City of Moreno
23 Valley,

24 Respondents and Defendants;

CASE NO.: RIC1511279

**PETITIONERS' NOTICE OF INTENT
TO PREPARE ADMINISTRATIVE
RECORD**

(California Environmental Quality Act
("CEQA"), Pub. Res. Code § 21000, et seq.;
Code of Civil Procedure §§ 1094.5, 1085)

Dept: CEQA Case

25 HIGHLAND FAIRVIEW; HF PROPERTIES, a
26 California general partnership; SUNNYMEAD
27 PROPERTIES, a Delaware general partnership;
28 THEODORE PROPERTIES PARTNERS, a
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THEODORE LLC, a California limited liability
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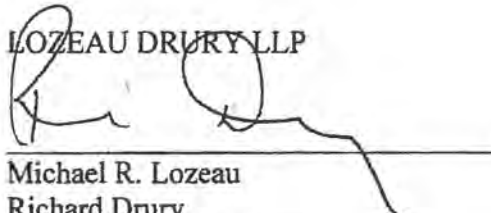
3 Real Parties in Interest and
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16 September 22, 2015

17 LOZEAU DRURY LLP

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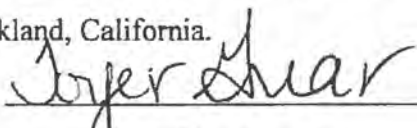
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24 Respondents and Defendants;

CASE NO.: RIC1511279

**NOTICE TO ATTORNEY GENERAL -
VERIFIED PETITION FOR WRIT OF
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(California Environmental Quality Act
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Dept: CEQA Case

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CONSTRUCTION, INC., a California

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3 California corporation,

4 Real Parties in Interest and
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19 FAIRVIEW COMMUNITIES, a Delaware limited liability company; HIGHLAND FAIRVIEW
20 CONSTRUCTION, INC., a California corporation; and HIGHLAND FAIRVIEW CORPORATE
21 PARK ASSOCIATION, a California corporation in Riverside County Superior Court.

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24 the Environmental Impact Report ("EIR") for the World Logistics Center Project. A copy of the
25 Petition is attached to this Notice.

26 September 22, 2015

LOZEAU DRURY LLP



Richard Drury
Attorneys for Petitioner

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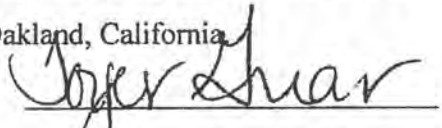
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

COUNTY OF RIVERSIDE, a political
subdivision of the State of California,

Petitioner/Plaintiff,

vs.

CITY OF MORENO VALLEY, a municipal
corporation, et al.,

Respondents/Defendants.

CASE NO. RIC 1511180

RIVERSIDE COUNTY TRANSPORTATION
COMMISSION, a public agency,

Petitioner/Plaintiff,

vs.

CITY OF MORENO VALLEY, a municipal
corporation; et al,

Respondents/Defendants.

CASE NO. RIC 1511130

[PROPOSED] STIPULATED JUDGMENT

Assigned to the Hon. Sharon J. Waters

HIGHLAND FAIRVIEW, et al.,

Real Parties in Interest.

1 **STIPULATED JUDGMENT**

2 This Stipulated Judgment and Stipulation for Entry of Final Judgment (“Judgment”) is
3 hereby stipulated and agreed to by, between, and among, petitioners the County of Riverside
4 (the “County”) and the Riverside County Transportation Commission (“RCTC”), respondents
5 City of Moreno Valley and the Moreno Valley Community Services District (collectively the
6 “City”), and real parties in interest HF Properties, Sunnymead Properties, Theodore Properties
7 Partners, 13451 Theodore, LLC, and HL Property Partners (collectively “Highland Fairview”),
8 each of whom shall be referred to individually as a “Party” or collectively as the “Parties,” to
9 resolve all claims and actions raised, or that could have been raised, in the above-captioned
10 litigation, as follows:

11 **I. RECITALS**

12 **A.** In August, 2015, the City certified an environmental impact report (the “EIR”)
13 and immediately thereafter granted a number of land use approvals for the World Logistics
14 Center, which included several legislative actions and one administrative action.

15 **B.** Subsequent to the City’s approval, a referendum petition seeking to overturn the
16 City’s approval of the World Logistics Center was circulated, but it failed to obtain the
17 required number of valid signatures and was subsequently dropped.

18 **C.** In response to the referendum petition to overturn the City’s approval, residents
19 of the City circulated initiative petitions to support and reaffirm the City’s approval of the
20 World Logistics Center. The initiatives’ sponsors obtained more than the required number of
21 valid signatures.

22 **D.** In September, 2015, the County and RCTC filed lawsuits in the Riverside
23 Superior Court, Case Nos. RIC 1511180 and RIC 1511130, related to the EIR’s compliance
24 with the California Environmental Quality Act (collectively the “CEQA Lawsuits”).

25 **E.** The CEQA Lawsuits are in addition to seven other lawsuits questioning the
26 validity of the approvals granted by the City (the “other CEQA Lawsuits”).

27 **F.** In November, 2015, the City adopted three resident-sponsored initiatives which
28 vacated the legislative approvals for the World Logistics Center approved in August, 2015,

1 and then adopted them pursuant to the citizens' initiative power, as set forth in Elections Code
2 §§ 9214 and 9215, as an adoption in the first instance.

3 **G.** In February, 2016, RCTC filed a lawsuit in the Riverside Superior Court, Case
4 No. RIC 1602030, questioning the validity of the initiatives adopted by the City in November,
5 2015 (the "Initiative Lawsuit").

6 **H.** The Initiative Lawsuit is in addition to three other lawsuits questioning the
7 validity of the resident-sponsored initiatives adopted by the City (the "other Initiative
8 Lawsuits").

9 **I.** The County, RCTC and the City share a mutual desire to advance economic
10 development, encourage sustainable development, support the creation of local jobs, and
11 increase economic opportunities in the County and the City. The Parties collectively agree
12 that settling the ongoing and potential litigation will create an opportunity to fund and make a
13 major investment in transportation infrastructure, which in combination with the development,
14 will advance the previously stated objective of creating jobs and economic opportunity.
15 Therefore, the County, RCTC, and the City have determined that implementation of the
16 provisions of a mutually agreed upon settlement agreement will provide a resolution in a
17 manner which is consistent with their collective goals ("Settlement Agreement").

18 **J.** The Parties agree that this Judgment is a full and complete resolution of all
19 claims that have been asserted or that could have been asserted, in the CEQA Lawsuits and the
20 Initiative Lawsuit.

21 **K.** The Parties agree that this Judgment is entered into with the goal of achieving
22 global settlement of any and all claims in the CEQA Lawsuits and the Initiative Lawsuit
23 regarding the Project.

24 **II. JURISDICTION**

25 The Parties agree that the Superior Court of California, County of Riverside, has
26 subject matter jurisdiction over the matters alleged in this litigation and personal jurisdiction
27 over the Parties to this Judgment.

28

1 **III. TERMS**

2 **NOW THEREFORE**, in consideration of the mutual covenants, agreements,
3 representations, and warranties contained in this Judgment, and other good and valuable
4 consideration, the Parties hereby stipulate and agree to entry of this Judgment, and agree to the
5 terms as set forth below.

6 **A. Exhibit A.**

7 1. All Parties agree to comply with the terms of the Settlement Agreement, set forth
8 in Exhibit A, attached hereto and incorporated herein by reference.

9 **B. The Parties' Obligations.**

10 1. Highland Fairview and the City will each contribute, directly or indirectly,
11 \$100,000, a total of \$200,000, for logistics-related studies. Of this funding, \$100,000 is to be
12 used for truck and logistics-related studies by the Center for Environmental Research and
13 Technology. The remainder (\$100,000) will be used by the Community Translational Research
14 Institute for public health research and programs. The \$200,000 in total contributions will be
15 made no later than 60 calendar days after a final judgment, free from further appellate review,
16 determining that the EIR, as it is or may be revised as a result of the other CEQA Lawsuits,
17 fully complies with CEQA and that the World Logistics Center Project may legally proceed.
18 Highland Fairview and the City shall be acknowledged as having contributed financial support
19 for the studies and shall be provided electronic and hardcopy copies of all reports upon their
20 release. The contributions shall be submitted to RCTC and shall be managed according to its
21 regular accounting practices.

22 2. Highland Fairview, the City, the County and RCTC will each contribute, directly
23 or indirectly, \$250,000, for a total of \$1,000,000, to be used for an RCTC-conducted regional
24 transportation study to evaluate a logistics-related regional fee. The contributions shall be
25 submitted to RCTC and shall be managed according to its regular accounting practices. The
26 contributions will be made no later than 60 calendar days after a final judgment, free from
27 further appellate review, determining that the EIR, as it is or may be revised as a result of the
28 other CEQA Lawsuits, fully complies with CEQA and that the World Logistics Center Project

1 may otherwise legally proceed. If RCTC fails to award a contract for preparation of the subject
2 regional transportation study within six months of the date the contributions are made by
3 Highland Fairview and the City, both shall be refunded the full amount of their respective
4 contributions and this obligation shall terminate as of the date of the refund. Highland Fairview
5 and the City will have the right to advance these funds at any time.

6 3. The development of the World Logistics Center currently contemplates
7 Highland Fairview widening Gilman Springs Road from one to three southbound lanes
8 between SR-60 and Alessandro Boulevard during phase 2 of the World Logistics Center's
9 construction. See EIR Fig. 4.15.5 on page 4.15-41. The City, the County and Highland
10 Fairview shall cooperate to determine the best alignment and configuration for Gilman
11 Springs Road. The money spent by Highland Fairview to improve Gilman Springs Road shall
12 be entitled to Transportation Uniform Mitigation Fee ("TUMF") credit to the extent eligible
13 per the TUMF Program Nexus Study and subject to approval by the Western Riverside
14 Council of Governments (the "WRCOG") in accordance with its policies and practices. In no
15 event shall either the County or RCTC oppose or object to the WRCOG's granting Highland
16 Fairview TUMF credits for the work to be performed on Gilman Springs Road, provided such
17 credits are granted in accordance with WRCOG's policies and practices.

18 4. Highland Fairview shall contribute \$3,000,000 to be used for safety-related
19 improvements to Gilman Springs Road within 10 days of issuance of the certificate of
20 occupancy for the first warehouse within the World Logistic Center. The contribution shall be
21 submitted to the County and shall be managed according to its regular accounting practices.
22 The contribution shall be credited against the in-lieu fee described in paragraph 6, and RCTC
23 shall manage all fee, contribution or funding according its regular accounting practices.

24 5. Highland Fairview shall contribute \$3,000,000; \$2,000,000 to be used for
25 engineering studies and project development for SR-60 between the I-215 and Gilman Springs
26 Road and \$1,000,000 for the Theodore Street interchange at SR-60, within 10 days of issuance
27 of the certificate of occupancy for the 4,000,000th square foot of warehouse space within the
28 World Logistics Center. The contribution shall be submitted to RCTC and managed according

1 to RCTC's regular accounting practices. The parties shall work together to determine how the
2 contribution is to be spent. The contribution shall be credited against the in-lieu fee described
3 in paragraph 6. Highland Fairview shall have the right to advance these funds at any time.

4 6. Highland Fairview shall pay a 65¢ per sq.ft in-lieu fee within 10 days of the time
5 of the issuance of each certificate of occupancy for a warehouse within the World Logistics
6 Center. If no logistic-related regional fee has been adopted by the County or at least 75% of
7 RCTC's member cities within 24 months of the contributions by the City and Highland
8 Fairview referred to in paragraph 2, the in-lieu fee shall be reduced to 50¢ per sq.ft. The in-lieu
9 fee shall be submitted to RCTC and shall be managed according to RCTC's regular accounting
10 practices. The in-lieu fee, whether 65¢ or 50¢ per sq.ft, shall be in-lieu of any new logistic-
11 related regional fee or additional fee imposed for transportation purposes, (excluding any
12 TUMF increases) whether imposed by the City or the County and whether the fee imposed is
13 less than, or greater than, 65¢ or 50¢ per sq.ft and shall be reduced by the amount of the
14 contributions described in paragraphs 4 and 5. The proceeds of the in-lieu fee shall be used for
15 the projects set forth in paragraphs 4 and 5 and/or on SR-60 between I-215 and Gilman
16 Springs Road. If a logistic-related regional fee is adopted by the County and/or the cities, such
17 fee shall not be added to the then existing TUMF fee but shall be imposed as a separate fee.

18 7. Each party shall bear its own costs, including, but not limited to, attorneys'
19 fees and costs incurred in, or related to, the CEQA Lawsuits and Initiative Lawsuit and
20 the negotiations leading up to the Settlement Agreement.

21 8. The City and Highland Fairview shall fully comply with all provisions of
22 the EIR, all CEQA mitigation measures and all conditions of approval imposed on the
23 World Logistics Center in the August 2015 approval process. The County and RCTC
24 shall not file any lawsuits challenging any approvals granted in the future for the World
25 Logistics Center, provided there are no revisions to the World Logistics Center project
26 which would change the World Logistics Center project description, the EIR, any CEQA
27 mitigation measure or any condition of approval imposed on the World Logistics Center
28 in the August 2015 approval process. Should any future approval revise the World

1 Logistics Center resulting in a change to the project description, the EIR, any CEQA
2 mitigation measure or any condition of approval imposed in the August 2015 approval
3 process, the County and RCTC may file a lawsuit challenging any such approval.

4 9. In the event of any failure by the City and Highland Fairview to comply
5 with the provisions of the Settlement Agreement, any provision in the EIR, any CEQA
6 mitigation measure or any condition of approval imposed on the World Logistics Center
7 in the August 2015 approval, the County and RCTC shall be limited to filing a lawsuit for
8 breach of the Settlement Agreement. In order to verify compliance with the August 2015
9 approval of the World Logistics Center, the City and Highland Fairview shall submit
10 annual reports commencing on or before January 1, 2017 and each year thereafter to the
11 County and RCTC describing the current status of construction of the World Logistics
12 Center and compliance with the EIR, all CEQA mitigation measures and all conditions of
13 approval.

14 10. In accordance with section 664.6 of the Code of Civil Procedure, the Court will
15 retain jurisdiction over the parties to enforce the terms of the Settlement Agreement, provided
16 to the Court as Exhibit A hereto, until all of the terms of the Settlement Agreement have been
17 performed.

18 11. The parties agree that pursuant to Evidence Code section 1123, this Judgment
19 may be used in any subsequent proceedings to prove the terms of the Settlement Agreement.

20 12. The Parties jointly request that the Court enter this Judgment as a final judgment
21 in the above-captioned action.

22 13. The Parties acknowledge that this Judgment is signed and executed without
23 reliance upon any actual or implied promises, warranties or representations made by any of
24 the Parties or by any representative of any of the Parties, other than those which are expressly
25 contained within this Judgment. This Judgment, including Exhibit A and the Recitals above,
26 constitutes the entire Judgment and understanding among and between the Parties and
27 supersedes any and all other agreements whether oral or written between the Parties.

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Dated: July 19, 2016

COUNTY OF RIVERSIDE

By: 

Name: JUAN C. PEREZ
Title: DIRECTOR, COUNTY OF RIVERSIDE,
TRANSPORTATION AND LAND
MANAGEMENT AGENCY

Approved as to form:

GREGORY P. PRIAMOS
COUNTY COUNSEL

By: 

Name: KARIN WATTS-BAZAN
Title: ASSISTANT COUNTY COUNSEL

Dated: July __, 2016

RIVERSIDE COUNTY TRANSPORTATION
COMMISSION

By: _____

Name: ANNE MAYER
Title: EXECUTIVE DIRECTOR

Approved as to form:

By: _____

Name: MICHELLE OUELLETTE
BEST BEST & KRIEGER LLP
Title: COUNSEL FOR RIVERSIDE COUNTY
TRANSPORTATION COMMISSION

Dated: July __, 2016

CITY OF MORENO VALLEY AND MORENO
VALLEY COMMUNITY SERVICES DISTRICT

By: _____

Name: Dr. YXSTIAN A. GUTIERREZ
Title: MAYOR AND CHAIR

1 Dated: July __, 2016

COUNTY OF RIVERSIDE

2

By: _____
Name: JUAN C. PEREZ
Title: DIRECTOR, COUNTY OF RIVERSIDE,
TRANSPORTATION AND LAND
MANAGEMENT AGENCY

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Approved as to form:

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GREGORY P. PRIAMOS
COUNTY COUNSEL

8

9

By: _____
Name: KARIN WATTS-BAZAN
Title: ASSISTANT COUNTY COUNSEL

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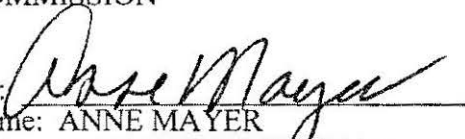
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Dated: July 9, 2016

RIVERSIDE COUNTY TRANSPORTATION
COMMISSION

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By: 
Name: ANNE MAYER
Title: EXECUTIVE DIRECTOR

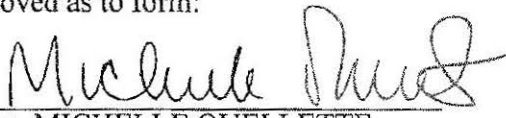
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Approved as to form:

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17

By: 
Name: MICHELLE OUELLETTE
BEST BEST & KRIEGER LLP
Title: COUNSEL FOR RIVERSIDE COUNTY
TRANSPORTATION COMMISSION

18

19

20

Dated: July __, 2016

CITY OF MORENO VALLEY AND MORENO
VALLEY COMMUNITY SERVICES DISTRICT

21

22

By: _____
Name: Dr. YXSTIAN A. GUTIERREZ
Title: MAYOR AND CHAIR

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Dated: July __, 2016

COUNTY OF RIVERSIDE

By: _____
Name: JUAN C. PEREZ
Title: DIRECTOR, COUNTY OF RIVERSIDE,
TRANSPORTATION AND LAND
MANAGEMENT AGENCY

Approved as to form:

GREGORY P. PRIAMOS
COUNTY COUNSEL

By: _____
Name: KARIN WATTS-BAZAN
Title: ASSISTANT COUNTY COUNSEL

Dated: July __, 2016

RIVERSIDE COUNTY TRANSPORTATION
COMMISSION

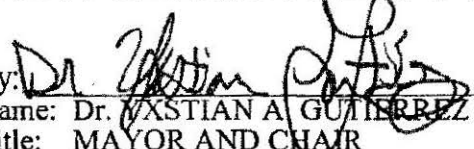
By: _____
Name: ANNE MAYER
Title: EXECUTIVE DIRECTOR

Approved as to form:

By: _____
Name: MICHELLE OUELLETTE
BEST BEST & KRIEGER LLP
Title: COUNSEL FOR RIVERSIDE COUNTY
TRANSPORTATION COMMISSION

Dated: July __, 2016

CITY OF MORENO VALLEY AND MORENO
VALLEY COMMUNITY SERVICES DISTRICT

By: 
Name: Dr. CRISTIAN A. GUTIERREZ
Title: MAYOR AND CHAIR

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Approved as to form:

By: PAUL EARLY FOR
Name: STEVEN B. QUINTANILLA
THE LAW OFFICES OF QUINTANILLA
& ASSOCIATES
Title: COUNSEL FOR CITY OF MORENO
VALLEY AND MORENO VALLEY
COMMUNITY SERVICES DISTRICT

Dated: July ____, 2016

HF PROPERTIES, SUNNYMEAD PROPERTIES,
THEODORE PROPERTIES PARTNERS, 13451
THEODORE, LLC, and HL PROPERTY
PARTNERS

By: _____
Name: IDDO BENZEEVI
Title: PRESIDENT

Approved as to form:

By: _____
Name: KENNETH B. BLEY
COX, CASTLE & NICHOLSON LLP
Title: COUNSEL FOR HF PROPERTIES,
SUNNYMEAD PROPERTIES,
THEODORE PROPERTIES PARTNERS,
13451 THEODORE, LLC, AND HL
PROPERTY PARTNERS

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____, 2016

HONORABLE JUDGE SHARON J.
WATERS
JUDGE OF THE SUPERIOR COURT


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Approved as to form:


By: _____
Name: STEVEN B. QUINTANILLA
THE LAW OFFICES OF QUINTANILLA
& ASSOCIATES
Title: COUNSEL FOR CITY OF MORENO
VALLEY AND MORENO VALLEY
COMMUNITY SERVICES DISTRICT

Dated: July 27, 2016

HF PROPERTIES, SUNNYMEAD PROPERTIES,
THEODORE PROPERTIES PARTNERS, 13451
THEODORE, LLC, and HL PROPERTY
PARTNERS

By: 
Name: IDDO BENZEEVI
Title: PRESIDENT and CEO

Approved as to form:

By: 
Name: KENNETH B. BLEY
COX, CASTLE & NICHOLSON LLP
Title: COUNSEL FOR HF PROPERTIES,
SUNNYMEAD PROPERTIES,
THEODORE PROPERTIES PARTNERS,
13451 THEODORE, LLC, AND HL
PROPERTY PARTNERS

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____, 2016

HONORABLE JUDGE SHARON J.
WATERS
JUDGE OF THE SUPERIOR COURT

EXHIBIT A

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SETTLEMENT AGREEMENT

This settlement agreement (“Agreement”) is made at Riverside, California, as of July 2, 2016, between THE COUNTY OF RIVERSIDE (the “County”) and the RIVERSIDE COUNTY TRANSPORTATION COMMISSION (the “RCTC”), on the one hand, and the CITY OF MORENO VALLEY and the MORENO VALLEY COMMUNITY SERVICES DISTRICT (collectively the “City”), HF PROPERTIES, SUNNYMEAD PROPERTIES, THEODORE PROPERTIES PARTNERS, 13451 THEODORE, LLC, and HL PROPERTY PARTNERS (collectively “Highland Fairview”), on the other hand, with respect to the following facts:

- A. Highland Fairview was the applicant for, and is now the developer of, the World Logistics Center.
- B. In August, 2015, the City certified an environmental impact report (the “EIR”) and immediately thereafter granted a number of land use approvals for the World Logistics Center, which included several legislative and one administrative actions.
- C. Subsequent to the City’s approval, a referendum petition seeking to overturn the City’s approval of the World Logistics Center was circulated but failed to obtain the required number of valid signatures and was subsequently dropped.
- D. In response to the referendum petition to overturn the City’s approval, residents of the City circulated initiative petitions to support and reaffirm the City’s approval of the World Logistics Center. The initiatives’ sponsors obtained more than the required number of valid signatures.
- E. In September, 2015, the County and the RCTC filed lawsuits in the Riverside Superior Court, Case Nos. RIC 1511180 and RIC 1511130, related to the EIR’s compliance with the California Environmental Quality Act (collectively the “CEQA Lawsuits”).
- F. The CEQA Lawsuits are in addition to seven other lawsuits questioning the validity of the approvals granted by the City (the “other CEQA Lawsuits”).
- G. In November, 2015, the City adopted three resident-sponsored initiatives which vacated the legislative approvals for the World Logistics Center approved in August, 2015, and then adopted them pursuant to the citizens’ initiative power, as set forth in Election Code §§ 9214 and 9215, as an adoption in the first instance.
- H. A referendum petition was circulated following the City’s adoption of the resident-sponsored initiatives in November, 2015. The referendum’s sponsors failed to obtain the required number of valid signatures.

- I. In February, 2016, the RCTC filed a lawsuit in the Riverside Superior Court, Case No. RIC 1602030, questioning the validity of the initiatives adopted by the City in November, 2015 (the "Initiative Lawsuit").
- J. The Initiative Lawsuit is in addition to three other lawsuits questioning the validity of the resident-sponsored initiatives adopted by the City (the "other Initiative Lawsuits").
- K. The County, the RCTC and the City share a mutual desire to advance economic development, encourage sustainable development, support the creation of local jobs, and increase economic opportunities in the County and the City. The parties collectively agree that this settlement will create an opportunity to fund and make a major investment in transportation infrastructure, which in combination with the development, will advance the previously stated objective of creating jobs and economic opportunity. Therefore, the County and the RCTC have determined that the implementation of the provisions of this agreement will provide a resolution in a manner which is consistent with their collective goals.

IN LIGHT OF THE FOREGOING FACTS, IT IS MUTUALLY AGREED THAT:

1. Highland Fairview and the City will each contribute, directly or indirectly, \$100,000, a total of \$200,000, for logistics-related studies. Of this funding, \$100,000 is to be used for truck and logistics-related studies by the Center for Environmental Research and Technology. The remainder (\$100,000) will be used by the Community Translational Research Institute for public health research and programs. The \$200,000 in total contributions will be made no later than 60 calendar days after a final judgment, free from further appellate review, determining that the EIR, as it is or may be revised as a result of the other CEQA Lawsuits, fully complies with CEQA and that the World Logistics Center Project may legally proceed. Highland Fairview and the City shall be acknowledged as having contributed financial support for the studies and shall be provided electronic and hardcopy copies of all reports upon their release. The contributions shall be submitted to the RCTC and shall be managed according to its regular accounting practices.

2. Highland Fairview, the City, the County and the RCTC will each contribute, directly or indirectly, \$250,000, for a total of \$1,000,000, to be used for an RCTC-conducted regional transportation study to evaluate a logistics-related regional fee. The contributions shall be submitted to the RCTC and shall be managed according to its regular accounting practices. The contributions will be made no later than 60 calendar days after a final judgment, free from further appellate review, determining that the EIR, as it is or may be revised as a result of the other CEQA Lawsuits, fully complies with CEQA and that the World Logistics Center Project may otherwise legally proceed. If the RCTC fails to award a contract for preparation of the subject regional transportation study within six months of the date the contributions are made by Highland Fairview and the City, both shall be refunded the full amount of their respective contributions and this obligation shall terminate as of the date of the refund. Highland Fairview and the City will have the right to advance these funds at any time.

3. The development of the World Logistics Center currently contemplates Highland Fairview widening Gilman Springs Road from one to three southbound lanes between SR-60 and Alessandro Boulevard during phase 2 of the WLC's construction. See EIR Fig. 4.15.5 on page 4.15-41. The City, the County and Highland Fairview will cooperate to determine the best alignment and configuration for Gilman Springs Road. The money spent by Highland Fairview to improve Gilman Springs Road will be entitled to Transportation Uniform Mitigation Fee ("TUMF") credit to the extent eligible per the TUMF Program Nexus Study and subject to approval by the Western Riverside Council of Governments ("WRCOG") in accordance with its policies and practices. In no event will either the County or the RCTC oppose or object to the WRCOG's granting Highland Fairview TUMF credits for the work to be performed on Gilman Springs Road, provided such credits are granted in accordance with WRCOG's policies and practices.

4. Highland Fairview will contribute \$3,000,000 to be used for safety-related improvements to Gilman Springs Road within 10 days of issuance of the certificate of occupancy for the first warehouse within the World Logistic Center. The contribution shall be submitted to the County and shall be managed according to its regular accounting practices. The contribution will be credited against the in-lieu fee described in paragraph 6 and the RCTC shall manage all fee, contribution or funding according to its regular accounting practices.

5. Highland Fairview will contribute \$3,000,000; \$2,000,000 to be used for engineering studies and project development for SR-60 between the I-215 and Gilman Springs Road and \$1,000,000 for the Theodore Street interchange at SR-60, within 10 days of issuance of the certificate of occupancy for the 4,000,000th square foot of warehouse space within the World Logistics Center. The contribution shall be submitted to the RCTC and shall be managed according to its regular accounting practices. The parties will work together to determine how the contribution is to be spent. The contribution will be credited against the in-lieu fee described in paragraph 6. Highland Fairview will have the right to advance these funds at any time.

6. Highland Fairview will pay a 65¢ per sq.ft in-lieu fee within 10 days of the time of the issuance of each certificate of occupancy for a warehouse within the World Logistics Center. If no logistic-related regional fee has been adopted by the County or at least 75% of the RCTC's member cities within 24 months of the contributions by the City and Highland Fairview referred to in paragraph 2, the in-lieu fee shall be reduced to 50¢ per sq.ft. The in-lieu fee shall be submitted to the RCTC and shall be managed according to its regular accounting practices. The in-lieu fee, whether 65¢ or 50¢ per sq.ft, will be in-lieu of any new logistic-related regional fee or additional fee imposed for transportation purposes, (excluding any TUMF increases) whether imposed by the City or the County and whether the fee imposed is less than, or greater than, 65¢ or 50¢ per sq.ft and will be reduced by the amount of the contributions described in paragraphs 4 and 5. The proceeds of the in-lieu fee will be used for the projects set forth in paragraphs 4 and 5 and/or on SR-60 between I-215 and Gilman Springs Road. If a logistic-related regional fee is adopted by the County and/or the cities, such fee shall not be added to the then existing TUMF fee but will be imposed as a separate fee.

7. Each party will bear its own costs, including, but not limited to, attorneys' fees and costs incurred in, or related to, the CEQA Lawsuits and Initiative Lawsuit and the negotiations leading up to this Agreement.

8. The terms of this Agreement will be embodied in a stipulated judgment in the CEQA Lawsuits in the form of Exhibit A.

9. The RCTC will dismiss the Initiative Lawsuit, with prejudice, and the County will not file any lawsuit regarding the initiatives adopted by the City in November, 2015.

10. The City and Highland Fairview shall fully comply with all provisions of the Final Certified EIR, all CEQA mitigation measures and all conditions of approval imposed on the World Logistics Center in the August 2015 approval process. The County and the RCTC shall not file any lawsuits challenging any approvals granted in the future for the World Logistics Center, provided there are no revisions to the World Logistics Center project which would change the World Logistic Center project description, the Final Certified EIR, any CEQA mitigation measure or any condition of approval imposed on the World Logistics Center in the August 2015 approval process. Should any future approval revise the World Logistics Center resulting in a change to the project description, the Final Certified EIR, any CEQA mitigation measure or any condition of approval imposed in the August 2015 approval process, the County and the RCTC may file a lawsuit challenging any such approval.

In the event of any failure by City and Highland Fairview to comply with the provisions of this Settlement Agreement, any provision of the Final Certified EIR, any CEQA mitigation measure or any condition of approval imposed on the World Logistics Center in the August 2015 approval, County and the RCTC shall be limited to filing a lawsuit for breach of this Settlement Agreement. In order to verify compliance with the August 2015 approval of the World Logistics Center, the City and Highland Fairview shall submit annual reports commencing on or before January 1, 2017 and each year thereafter to the County and the RCTC describing the current status of construction of the World Logistic Center and compliance with the Final Certified EIR, all CEQA mitigation measures and all conditions of approval.

11. The parties will express their positive support of the terms of this Agreement.

12. This Agreement is entered into solely for the benefit of the parties hereto and their successors (including by law, contract or title), transferees and assigns. Other than the parties hereto, their successors, transferees and assigns, no third party shall be entitled, directly or indirectly, to base any claim, or to have any right arising from, or related to, this Agreement.

13. The parties shall execute all further and additional documents as shall be reasonable, convenient, necessary or desirable to carry out the provisions of this Agreement. The parties shall act in good faith and shall take all further actions reasonably necessary to effectuate the letter and the spirit of this Agreement.

14. This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the State of California applicable to instruments, persons, transactions and subject matter which have legal context and relationship solely within the State. The language of this Agreement and all other documents referred to herein shall be construed as a whole according to their fair meaning. Venue and jurisdiction with respect to any action arising under or in relation to this Agreement shall be exclusively within the Riverside County Superior Court. To the extent permitted by law, this Agreement is intended as a valid Settlement Agreement pursuant to Evidence Code § 1123 and shall be admissible and enforceable pursuant to Code of Civil Procedure § 664.6.

15. The prevailing party in any litigation brought to enforce or interpret this Agreement shall be entitled to recover its attorneys' fees and all costs of litigation including, but not limited to, expert witness fees, in addition to any other relief to which it may be entitled. Fees and costs not included within those allowed by Code of Civil Procedure § 1033.5 shall be set forth in the parties' pleadings and shall be proved to the trial judge, the right to trial by jury being hereby waived for all purposes. All of the other terms of this Agreement shall remain in effect if the jury waiver set forth in this paragraph 14 is held to be unenforceable.

16. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally, by reliable overnight courier, or by facsimile transmission for receipt during the receiving parties' normal business hours to the party to whom notice is to be given, or on the third (3rd) day after mailing if mailed to the party to whom notice is to be given, by first class mail, registered or certified, return receipt requested, postage prepaid, and properly addressed as follows:

County of Riverside: County of Riverside, Transportation and Land Management Agency
4080 Lemon Street, 14th Floor
Riverside, California 92502
Attn: Juan C. Perez, Director
Telephone: (951) 955-6742
Facsimile: (951) 955-6879

Copy to: County of Riverside, Office of County Counsel
3960 Orange Street, Suite 500
Riverside, California 92501
Attn: Gregory P. Priamos, County Counsel
Telephone: (951) 955-6300
Facsimile: (951) 955 6322

RCTC: Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, California 92501
Attn: Anne Mayer, Executive Director
Telephone: (951) 787-7141
Facsimile: (951) 787-7920

Copy to: Michelle Ouellette, Esq.
Best Best & Krieger LLP
3390 University Avenue, 5th Floor
Riverside, California 92501
Telephone: (951) 686-1450
Facsimile: (951) 686-3083

City of Moreno Valley: City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92552
Attn: Michelle Dawson, City Manager
Telephone: (951) 413-3000
Facsimile: (951) 413-3210

Copy to: Steven B. Quintanilla, Esq.
The Law Offices of Quintanilla & Associates
P.O. Box 176
Rancho Mirage, California 92270
Telephone: (760) 883-1848

Highland Fairview: Iddo Benzeevi
President and Chief Executive Officer
Highland Fairview Operating Co.
14225 Corporate Way
Moreno Valley, California 92553
Telephone: (951) 867-5327
Facsimile: (951) 867-5328

Copy to: Kenneth B. Bley, Esq.
Cox Castle & Nicholson LLP
2029 Century Park East, Suite 2100
Los Angeles, California 90067
Telephone: (310) 284-2231
Facsimile: (310) 284-2100

17. This Agreement contains the entire agreement and understanding concerning the CEQA Lawsuits and the Initiative Lawsuit and supersedes and replaces all prior negotiations or proposed agreements, written or oral. Each of the parties hereto acknowledges that no other party, nor the agents nor the attorneys for any party, has made any promise, representation or warranty whatsoever, express or implied, not contained herein, to induce the execution of this Agreement and acknowledges that this Agreement has not been executed in reliance upon any promise, representation or warranty not contained herein. Each party has participated, cooperated or contributed to the drafting and preparation of this Agreement. This Agreement shall not be construed for or against any Party but shall be construed fairly according to its plain meaning, and shall be unconditionally supported by all Parties, in all forums.

18. This Agreement may not be amended except in a writing signed by all the parties hereto.

19. The parties to this Agreement hereby acknowledge that they have undertaken an independent investigation of the facts concerning the approvals of the World Logistics Center and the CEQA Lawsuits and Initiative Lawsuit and that they have been advised by their own attorneys. The parties expressly assume the risk that the true facts concerning the foregoing may differ from those currently understood by them.

20. Each party signing this Agreement warrants and represents that he or she has been duly authorized to do so by the party he or she represents.

21. This Agreement may be signed in one or more counterparts and, when all parties have signed the original or a counterpart, such counterparts, whether originals, facsimiles or e-mail attachments, together shall constitute one original document.

Dated: July 29, 2016

COUNTY OF RIVERSIDE

By: 

Name: JUAN C. PEREZ

Title: DIRECTOR, COUNTY OF RIVERSIDE, TRANSPORTATION AND LAND MANAGEMENT AGENCY

Approved as to form:

GREGORY P. PRIAMOS
COUNTY COUNSEL

By: 

Name: KARIN WATTS-BAZAN

Title: ASSISTANT COUNTY COUNSEL

Dated: July 7, 2016

RIVERSIDE COUNTY TRANSPORTATION
COMMISSION

By: 
Name: ANNE MAYER
Title: EXECUTIVE DIRECTOR

Approved as to form:

By: 
Name: MICHELLE OUELLETTE
BEST BEST & KRIEGER LLP
Title: COUNSEL FOR RIVERSIDE
COUNTY TRANSPORTATION
COMMISSION

Dated: July __, 2016

CITY OF MORENO VALLEY AND
MORENO VALLEY COMMUNITY
SERVICES DISTRICT

By: _____
Name: DR. YXSTIAN A. GUTIERREZ
Title: MAYOR AND CHAIR

Approved as to form:

By: _____
Name: STEVEN B. QUINTANILLA
THE LAW OFFICES OF
QUINTANILLA & ASSOCIATES
Title: COUNSEL FOR CITY OF MORENO
VALLEY AND MORENO VALLEY
COMMUNITY SERVICES DISTRICT

Dated: July __, 2016

RIVERSIDE COUNTY TRANSPORTATION
COMMISSION


By: _____
Name: ANNE MAYER
Title: EXECUTIVE DIRECTOR

Approved as to form:


By: _____
Name: MICHELLE OUELLETTE
BEST BEST & KRIEGER LLP
Title: COUNSEL FOR RIVERSIDE
COUNTY TRANSPORTATION
COMMISSION

Dated: July __, 2016

CITY OF MORENO VALLEY AND
MORENO VALLEY COMMUNITY
SERVICES DISTRICT

By: 
Name: DR. YXSTIAN A. GUTIERREZ
Title: MAYOR AND CHAIR

Approved as to form:

By: 
Name: STEVEN B. QUINTANILLA
THE LAW OFFICES OF
QUINTANILLA & ASSOCIATES
Title: COUNSEL FOR CITY OF MORENO
VALLEY AND MORENO VALLEY
COMMUNITY SERVICES DISTRICT

Dated: July 27 2016

HF PROPERTIES, SUNNYMEAD
PROPERTIES, THEODORE PROPERTIES
PARTNERS, 13451 THEODORE, LLC, AND
HL PROPERTY PARTNERS

By: Iddo Benzeevi

Name: IDDO BENZEEVI

Title: PRESIDENT and CEO

Approved as to form:

By: Kenneth B. Bley

Name: KENNETH B. BLEY

COX, CASTLE & NICHOLSON LLP.

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LLC, and HL PROPERTY
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PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is 3390 University Avenue, 5th Floor, P.O. Box 1028, Riverside, California 92502. On August 1, 2016, I served the following document(s):

[PROPOSED] STIPULATED JUDGMENT

By fax transmission. Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

By United States mail. I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):

Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

Placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Riverside, California.

By personal service. At ___ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.

By messenger service. I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service for service. A Declaration of Messenger is attached.

By overnight delivery. I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

1 By e-mail or electronic transmission. Based on a court order or an agreement of
2 the parties to accept service by e-mail or electronic transmission, I caused the
3 documents to be sent to the persons at the e-mail addresses listed below. I did not
4 receive, within a reasonable time after the transmission, any electronic message or
5 other indication that the transmission was unsuccessful.

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I declare under penalty of perjury under the laws of the State of California that the
above is true and correct.

Executed on August 1, 2016, at Riverside, California.


MONICA CASTANON

CITY CLERK
MORENO VALLEY
RECEIVED

15 SEP 29 AM 11:31

FILED

Superior Court Of California
County Of Riverside
09/23/2015
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BY FAX**

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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF RIVERSIDE

15 RESIDENTS FOR A LIVABLE MORENO)
16 VALLEY, an unincorporated association, and,)

17 Petitioner,)

18 v.)

19 CITY OF MORENO VALLEY, a public)
20 entity; CITY COUNCIL OF CITY OF)
21 MORENO VALLEY, a public entity;)
22 MORENO VALLEY COMMUNITY)
23 SERVICES DISTRICT, a public entity;)
24 MORENO VALLEY COMMUNITY)
25 SERVICES DISTRICT BOARD OF)
26 DIRECTORS, a public entity; and DOES 1-10,)
27 inclusive,)

28 Respondents,)

CASE NO.: **RIC1511421**

**VERIFIED PETITION FOR
PEREMPTORY WRIT OF MANDATE**
(Code Civ. Proc. §§ 1085, 1094.5; Pub. Res. C,
§ 21000 *et seq.*)

Judge:
Department:

Action Filed:

CASE DESIGNATION: CEQA

29 HIGHLAND FAIRVIEW, INC., a corporation;)
30 HIGHLAND FAIRVIEW, LLC, a limited)
31 liability company; HIGHLAND FAIRVIEW, a)
32 partnership; IDDO BENZEEVI, individually)
33 and as a partner of HIGHLAND FAIRVIEW)
34 partnership; IDDO BENZEEVI as a sole)
35 proprietor doing business as HIGHLAND)
36 FAIRVIEW; HF PROPERTIES, a general)
37 partnership; SUNNYMEAD PROPERTIES, a)
38 general partnership; THEODORE)

1 PROPERTIES PARTNERS, general)
2 partnership; 13451 THEODORE, LLC, a)
3 limited liability company; HL PROPERTY)
4 PARTNERS, a general partnership; and DOES)
5 11 through 100, inclusive,)

Real Parties in Interest,

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1 Pursuant to California Code of Civil Procedure Section 1085 and/or 1094.5 and California Public
2 Resources Code section 21000 *et seq.*, Petitioner, RESIDENTS FOR A LIVABLE MORENO VALLEY
3 (“Petitioner”), brings this action on their own behalf, on behalf of their members, and on behalf of the
4 general public and in the public interest to enforce the California Environmental Quality Act and other
5 California state and local laws, and by this verified petition alleges as follows:

6 **INTRODUCTION**

- 7
- 8 1. Petitioner respectfully requests issuance of a peremptory writ of mandate setting aside the
9 decisions of the CITY OF MORENO VALLEY and its CITY COUNCIL (jointly, “City”) and
10 MORENO VALLEY COMMUNITY SERVICES DISTRICT and its BOARD (jointly, “CSD”) approving the
11 WORLD LOGISTICS CENTER PROJECT (the “Project”) and certifying the
12 Environmental Impact Report (“EIR”) for the Project.
 - 13 2. The City and CSD approvals made for the Project on or about August 19, 2015 and August 25,
14 2015 include, but are not limited to, the following:
 - 15 a. Approval of Resolution No. 2015-56, a Resolution of the City Council of the City of
16 Moreno Valley, California, certifying the Final Environmental Impact Report (P12-016)
17 (SCH #2012021045), adopting the Findings and Statement of Overriding Considerations,
18 and approving the Mitigation Monitoring Program for the World Logistics Center Project
 - 19 b. Approval of Resolution No. 2015-57, a Resolution of the City Council of the City of
20 Moreno Valley, California, approving PA12-0010 (General Plan Amendments) for the
21 proposed World Logistic Center Project to include land use changes for property within
22 the World Logistics Center Specific Plan Area to Business Park/Light Industrial (BP) and
23 Open Space (OS) and properties outside of the World Logistics Center Specific Plan to
24 Open Space (OS) and corresponding General Plan Element Goals and Objectives text and
25 map amendments to the Community Development, Circulation, Parks, Recreation and
26 Open Space, Safety and Conservation Elements;
 - 27 c. Approval of Ordinance No. 900, a Resolution of the City Council of the City of Moreno
28 Valley, California, approving PA12-0012 (Change of Zone), PA12-0013 (Specific Plan)
and PA12-0014 (Prezoning/ Annexation), which include the proposed World Logistics

1 Center Specific Plan, a full repeal of the Moreno Highlands Specific Plan No. 212-1, Pre-
2 Zoning/Annexation for 85 acres at northwest corner of Gilman Springs Road and
3 Alessandro Boulevard, Change of Zone to Logistics Development (LD), Light Logistics
4 (LI) and Open Space (OS) for areas within the proposed World Logistics Center Specific
5 Plan boundary, and a Change Of Zone to Open Space (OS) for those project areas outside
6 and southerly of the proposed World Logistics Center Specific Plan boundary;

- 7
- 8 d. Approval of Resolution No. 2015-58, a Resolution of the City Council of the City of
9 Moreno Valley, California, approving PA 12-0015 (Tentative Parcel Map No. 36457) for
10 the purposes of establishing twenty-six (26) parcels for financing and conveyance
11 purposes, including an 85 acre parcel of land currently located in the County of Riverside
12 adjacent to Gilman Springs Road and Alessandro Boulevard and which is included in the
13 World Logistics Center Specific Plan;
- 14 e. Approval of Ordinance No 901, a Resolution of the City Council of the City of Moreno
15 Valley, California, approving PA 12-0011 (Development Agreement) for the World
16 Logistics Center Project which real estate Highland Fairview has legal or equitable
17 interest in, on approximately 2,263 acres, within the World Logistics Specific Plan Area
18 (2,610 Acres), intended to be developed as high cube logistics warehouse and related
19 ancillary uses generally east of Redlands Boulevard, south of State Route 60, west of
20 Gilman Springs Road and north of the San Jacinto Wildlife Area:
- 21 f. Approval of Resolution No. 2015-59, a Resolution of the City Council of the City of
22 Moreno Valley, California, requesting the Riverside Local Agency Formation
23 Commission initiate proceedings for the expansion of the City boundary for
24 approximately 85 Acres of land located along Gilman Springs Road and Alessandro
25 Boulevard (APN Nos. 422-130- 002 And 422-130-003); and
- 26 g. Approval of Resolution No. CSD 2015-29, a Resolution of the Moreno Valley
27 Community Services District of the City of Moreno Valley, California, to request the
28 Riverside Local Agency Formation Commission initiate proceedings for the expansion of
the Community Services District boundary to include approximately 85 acres of land

1 located along Gilman Springs Road and Alessandro Boulevard in conjunction with a
2 related annexation (APN Nos. 422-130-002 and 422-130- 003).

3 A Notice of Determination for the Project was posted August 26, 2015.

- 4
- 5 3. The Project would establish the framework for up to 40,600,000 square feet of industrial,
6 logistics, high-cube, warehouse and distribution center land uses, including a small amount of
7 related “logistics support” (e.g. fueling) uses on 2,610 acres (approximately 4.2 square miles) in
8 the eastern part of Moreno Valley. The Project would also make city-wide changes to the
9 General Plan.
- 10 4. Petitioner, together with numerous governmental agencies, adjacent jurisdictions, and concerned
11 members of the public, documented numerous violations of the California Environmental
12 Quality Act (“CEQA”) (Public Resources Code § 21000 *et seq.*), California Government Code,
13 and the City’s Municipal Code during the administrative proceedings leading up to the ultimate
14 certification of the EIR and Project approval of the Project. The City’s failure to properly prepare
15 and certify a legally adequate EIR for the Project, and failure to ensure all feasible mitigation
16 measures were adopted, were the central to these violations.
- 17 5. As described herein, The City and CSD’s approval of the Project violated the provisions of
18 CEQA. The EIR failed to adequately analyze project impacts to/from, at least: aesthetics, air
19 quality/ health risks, agricultural resources, biological resources, cultural resources,
20 geology/soils, greenhouse gas emissions, hydrology/water quality, hazards/hazardous materials,
21 land use/planning, noise, population/housing, public services, traffic, and water supply, as well
22 as regional and cumulative effects. Of particular consequence, Petitioner and others including
23 South Coast Air Quality Management District (SCAQMD), the California Air Resources Board
24 (CARB), Riverside County Transportation Commission (RCTC), and California Department of
25 Transportation (Caltrans) described significant flaws in the EIR’s evaluation and disclosure of air
26 quality, health risks, traffic, and other impacts locally and regionally from the estimated 14,000
27 daily truck trips generated by the Project. Also, Petitioner, California Department of Fish and
28 Wildlife (CDFW), and others specified substantial deficiencies in the EIR’s analysis and
disclosure of impacts to biological resources, specifically where the development of over 40

1 million square feet of warehousing would occur adjacent to the sensitive biological habitat of the
2 San Jacinto Wildlife Area.

- 3
- 4 6. The City also violated CEQA's substantive mandate by failing to adopt all feasible mitigation for
5 Project impacts, and failing to ensure mitigation is certain and enforceable. Of special note was
6 the City's failure to require zero-emission, near-zero emission, and/or hybrid truck technology
7 despite evidence from CARB and SCAQMD that requiring such technology is feasible and
8 commercially available now and by 2030 Project buildout. Also grievous was the City's failure
9 to require certain mitigation for Project impacts to the state highway system despite comments
10 from Caltrans and the RCTC that no mitigation was required for these roadways. Given the
11 Project will comprise almost 10% of the total warehousing space project to be needed in the
12 region by 2035, the City failed to comply with CEQA by failing to require development of a fair-
13 share contribution plan or otherwise establishing such a funding mechanism to ensure all feasible
14 mitigation was adopted for the Project.
- 15 7. The City's Findings of Fact and adoption of a Statement of Overriding Considerations were also
16 unsupported by substantial evidence in the record, and the Statement of Overriding
17 Considerations was improperly adopted where feasible mitigation measures and alternatives
18 existed to lessen significant project impacts.
- 19 8. The EIR finds that the Project will have significant and unavoidable impacts to the environment
20 in the areas of aesthetics, air quality, land use and planning, noise, and transportation. The
21 Project approvals, if allowed to stand, would thus significantly impact the environment.
- 22 9. Because the City and CSD failed to comply with CEQA, Petitioner petitions this Court for a writ
23 of mandate under Code of Civil Procedure §§ 1085 and 1094.5 to direct the City and CSD to
24 vacate and set aside their approval of the Project and certification of the EIR.
- 25 10. Petitioner has no further administrative remedy and has no plain, speedy, or adequate remedy in
26 the ordinary course of law unless the Court grants this Petition. In the absence of such remedies,
27 Respondents' decisions will remain in effect in violation of state law.

28 **JURISDICTION AND VENUE**

11. This Court has jurisdiction to issue writs of mandate under Code of Civil Procedure §§ 1085 and

1 1094.5 and declaratory relief under Section 1060. This Court has jurisdiction over this matter
2 pursuant to Public Resources Code §§ 21168, 21168.5, and 21168.9. Further, this Court has
3 jurisdiction to render judicial determinations and is otherwise authorized to grant the relief
4 prayed for herein.

- 5
6 12. Venue is proper in this Court pursuant to Code of Civil Procedure Sections 393 and 394 as the
7 Project is located in, and the relevant events occurred in, Riverside County, and because the City
8 is located in Riverside County.

9 **PARTIES**

- 10 13. Petitioner, RESIDENTS FOR A LIVABLE MORENO VALLEY, is an unincorporated
11 association created because of the concerns about the environmental harms of this Project and
12 other projects within the City, and includes individuals residing in the City. Members of
13 RESIDENTS FOR A LIVABLE MORENO VALLEY would be irreparably harmed by the
14 Project's potential environmental impacts. Members of RESIDENTS FOR A LIVABLE
15 MORENO VALLEY and its counsel submitted comments opposing approval of the Project to
16 the City, which has discretionary approval authority over the Project.
- 17 14. Respondent, CITY OF MORENO VALLEY ("City"), is a public entity located in the County of
18 Riverside and is the lead agency for the Project under CEQA. The CITY OF MORENO
19 VALLEY is the agency charged with the authority of regulating and administering land use and
20 development within its territory in compliance with the provisions of its general plan and zoning
21 ordinances as well as applicable provisions of state law including CEQA. As the lead agency for
22 the Project, the CITY OF MORENO VALLEY is charged with the duty of ensuring compliance
23 with these applicable laws. Respondent CITY COUNCIL OF CITY OF MORENO VALLEY is
24 the elected decision-making and legislative body of the CITY OF MORENO VALLEY
25 empowered to approve or disapprove projects under CEQA. The CITY COUNCIL OF CITY OF
26 MORENO VALLEY is responsible for making administrative decisions and hearing
27 administrative appeals made from City departments.
- 28 15. Respondent, MORENO VALLEY COMMUNITY SERVICES DISTRICT ("CSD"), is a public
agency known as a Special District, created by vote of the citizens of Moreno Valley and formed

1 under Division 3 of Title 6, §§ 61000 *et seq.* of the California Government Code. The CSD may
2 collect taxes, charges, and/or assessments to provide services within the boundaries of the City
3 and is responsible for providing parks, community services (including landscaping), and street
4 lighting services in the City. Respondent MORENO VALLEY COMMUNITY SERVICES
5 DISTRICT BOARD OF DIRECTORS, is the legislative body of the CSD. The CITY COUNCIL
6 OF CITY OF MORENO VALLEY serves as the MORENO VALLEY COMMUNITY
7 SERVICES DISTRICT BOARD OF DIRECTORS. The MORENO VALLEY COMMUNITY
8 SERVICES DISTRICT BOARD OF DIRECTORS is responsible for establishing policies for the
9 operation of the district. The CSD was responsible for approving Resolution No. CSD 2015-29.
10 The NOD states that the City Council, acting for itself and as the governing body of the CSD,
11 approved the Project and made the various CEQA determinations listed therein.

- 12 16. On August 26, 2015 the City issued a Notice of Determination identifying "Highland Fairview"
13 as the applicant for the Project.
- 14 17. Petitioner is informed, believes, and thereon alleges that Real Party in Interest, HIGHLAND
15 FAIRVIEW, INC. is a corporation; that Real Party in Interest, HIGHLAND FAIRVIEW, LLC,
16 is a limited liability company; that Real Party in Interest, HIGHLAND FAIRVIEW, is a
17 partnership; that Real Party in Interest IDDO BENZEEVI is a partner of HIGHLAND
18 FAIRVIEW partnership; and that Real Party in Interest IDDO BENZEEVI is engaged in
19 business as a sole proprietor doing business as HIGHLAND FAIRVIEW. and is the applicant
20 for the Project approvals and /or claims an interest in the approvals at the subject of this lawsuit.
- 21 18. Petitioner is informed, believes, and thereon alleges that Real Party in Interest, HF
22 PROPERTIES, is a California general partnership, and is the applicant for the Project approvals,
23 has an ownership interest in the property at issue, and /or claims an interest in the approvals at
24 the subject of this lawsuit.
- 25 19. Petitioner is informed, believes, and thereon alleges that Real Party in Interest, SUNNYMEAD
26 PROPERTIES, is a Delaware general partnership, and has an ownership interest in the property
27 at issue, and /or claims an interest in the approvals at the subject of this lawsuit.
- 28 20. Petitioner is informed, believes, and thereon alleges that Real Party in Interest, THEODORE

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30. The Project site is comprised of largely vacant agricultural land with seven occupied single-family homes and associated ranch/farm buildings. The site has been farmed since the early 1900s and continues to support dry farming.
31. Land use and zoning designations on the Project site are "Moreno Highlands Specific Plan." The Moreno Highlands Specific Plan proposes a master planned, mixed-use community consisting of: up to 7,763 residential dwelling units on 1,359.3 acres; 779.8 acres of parks and open space; 415.1 acres of public facilities; 360.8 acres of business park; 80.5 acres of mixed use; 10 acres of neighborhood commercial; 16 acres of community commercial; and 16.5 acres of cemetery uses. Land use and zoning designations onsite are Moreno Highlands Specific Plan.
32. The EIR stated existing conditions surrounding the site include:
- a. South of SR-60/ East of Redlands Boulevard: mainly dry farming with several scattered residences, several natural gas facilities, and two local roadways (Alessandro Boulevard and Theodore Street.)
 - b. North of SR-60: relatively rural with mixed light industrial uses along the freeway and scattered residences further from the freeway.
 - c. East of Gilman Springs Road: scattered rural residences east and a golf course southeast.
 - d. Southern Boundary: all land is part of the Mystic Lake/ San Jacinto Wildlife Area property, providing open space and wildlife uses.
 - e. West of Redlands Boulevard: north of Eucalyptus Avenue/ Fir Avenue, land is planned for industrial warehousing. South of Fir Avenue, land is planned for residential uses. Residential neighborhoods exist along the west boundary of the project site, west of Redlands Boulevard south of Eucalyptus Avenue, and east of Redlands Boulevard south of Cottonwood Avenue.
33. The EIR stated existing land use and zoning designations surrounding the site include:
- a. South of SR-60/ East of Redlands Boulevard: a mixture of Commercial (C) and Light Industrial (LI).
 - b. North of SR-60: Office (O) and Residential west of Theodore Street. East of Theodore Street, Scenic Highway Commercial (C-P-S), which allows wholesale and retail

1 commercial; and Controlled Development Area (W-2), which allows single family
2 residential and light agriculture. The area east of Theodore is within the City's Sphere of
3 Influence, and there designated Rural Residential (RR) and Residential (R1).

4 c. East of Gilman Springs Road: Controlled Development Area (W-2, W-2-1, and W-2-20),
5 in which allowed uses include single-family residential and light agriculture. (the suffix
6 indicates minimum parcel size in acres). As this area is within the City's Sphere of
7 Influence, the City land use designation for the area is Rural Residential (RR).

8 d. Southern Boundary: all land is part of the San Jacinto Wildlife Area and Lake Perris State
9 Recreation Area, and designated Open Space (OS) or public facilities (PF).

10 e. West of Redlands Boulevard: Residential R2, R3, R5, which allow 2, 3, and 5 dwelling
11 units per acre, respectively.

12 **The Project and EIR**

13 34. The City prepared a Program EIR for the Project pursuant to State CEQA Guidelines, California
14 Code of Regulations, tit. 14, § 15168.

15 35. The Final EIR states the EIR covers the following discretionary actions needed to be approved
16 by the City:

17 f. A General Plan Amendment covering 3,714 acres, which re-designates approximately
18 70% of the area (2,610 acres) for logistics warehousing and the remaining 30 percent
19 (1,104 acres) for permanent open space and public facilities. The Amendment includes
20 the following elements of the General Plan: Community Development (land use),
21 Circulation, Parks, Recreation and Open Space, Safety, Conservation, and the General
22 Plan Goals and Objectives.

23 g. A new Specific Plan to govern the development of the 2,610-acre World Logistics
24 Center.

25 h. A separate zoning amendment to rezone 1,104 acres for open space and public facilities
26 uses and to incorporate the Specific Plan into the City's Zoning Map.

27 i. A Tentative Parcel Map covering a 1,539-acre site (property owned by the project
28 applicant, Highland Fairview) within the Project site, for financing purposes.

1 j. Pre-annexation zoning for an 85-acre parcel of land within the Project.

2 k. A Development Agreement between the City and Highland Fairview.

3 36. The Project covered by the EIR includes 3,714 acres of land, of which 2,610 acres are designated
4 for logistics warehousing within the World Logistics Center Specific Plan ("WLCSP"), and
5 1,104 acres are designated for open space and public facilities.

6 37. The Project includes the WLCSP covering the 2,610 acres of the total 3,714 acres and proposing
7 development of approximately 40.6 million square feet of high-cube logistics warehouse
8 distribution uses.

9 38. According to the EIR, the WLCSP proposes predominantly High-Cube Logistics Development
10 (LD) (500,000 + square feet buildings), comprising 2,383 acres of the WLCSP area. The LD
11 designation includes a fire station and a proposed 3,000 square feet "logistics support" facility
12 for vehicle fueling and the sale of convenience goods. Approximately 37.1 acres (0.5%) of the
13 WLCSP area would be classified as Light Logistics (200,000 square feet) (LL). 74.3 acres
14 would be designated open space, and 115.8 acres would be right-of-way (included within each
15 land use category).

16 39. The EIR describes logistics warehousing development as used primarily for the storage and/or
17 consolidation of manufactured goods prior to their distribution to secondary retail outlets. The
18 goods imported through the Ports of Long Beach and Los Angeles, as well as other location, are
19 delivered via truck to the proposed distribution centers and distributed via truck to both in and
20 out of state locations. The warehouse facilities are larger than 500,000 square feet in size, with
21 heights of 24 feet or more and vertical-lift dock doors to allow loading and unloading of products
22 from trucks/trailers. Facilities include ancillary office and maintenance space plus outdoor
23 storage of trucks, trailers, and shipping containers. Parking is provided for vehicles plus trucks
24 and trailers.

25 40. The EIR states the LD land use designation on 2,383 acres would allow development of 40.4
26 million square feet of high-cube logistics warehouse space and represents 99.5% of development
27 in the WLCSP area. Warehouses would be 500,000 square feet or greater, with a maximum
28 height of 80 feet (60 feet along the western, northern, and southern boundaries). Ancillary uses

1 and storage of trucks, trailers, and shipping containers are permitted within this land use
2 designation. Refrigerated warehousing is not permitted.

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4 41. Two “special use” areas are proposed within the LD land use designation: (1) for one City fire
5 station in Planning Area 11 east of Street F and west of Gilman Springs Road; and (2) for
6 “logistics support” to provide alternative fuel sales and a small convenience store. Other
7 permitted uses in the “logistics support” area include construction yards, cellular transmission
8 facilities and structures, and public utility uses and structures.
- 9 42. The EIR states the LL land use designation on 37 acres within the WLCSP site would apply to
10 existing lots not large enough for LD buildings, and could support up to 200,000 square feet of
11 building area. Uses allowed include warehouse, self-storage, or vehicles storage uses, and also
12 office and/or maintenance areas. Some of these lots are currently residential and/or agricultural
13 uses, which would become legal, non-conforming uses under the WLCSP.
- 14 43. The EIR states the OS land use designation on 74.3 acres within the WLCSP would apply to the
15 southwest corner of the project adjacent to Mount Russell and the Lake Perris State Recreational
16 Area. The WLCSP restricts uses on this property to passive open space and recreation, and the
17 entire area will be offered to the State for expansion of its adjacent ownership, or to other
18 conservation organizations. However, Cactus Avenue will also be extended through this area.
- 19 44. The remaining 1,104 acres of the Project outside of the WLCSP and designated for Open Space
20 and Public Facilities includes: an existing 910-acre parcel owned by CDFW and preserved as
21 part of the San Jacinto Wildlife Area; and 194 acres owned by San Diego Gas & Electric
22 Company and Southern California Gas Company immediately south of the SP area. Of the land
23 owned by these utilities, 174 acres designated as Open Space, while the 20 remaining acres
24 would be designated as Public Facility.
- 25 45. The WLCSP land use plan is divided into sixteen (16) Planning Areas (PAs)
- 26 46. The Public Facility land includes: a regional natural gas compression-transmission facility on 19-
27 acres, operated by SDG&E in the south-central portion of the site; and a one-acre natural gas
28 facility operated by SCGC is located just north of that compression facility.

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47. The Project would also require construction of off-site infrastructure improvements on approximately 104 acres of land adjacent to the WLCSP including, but not limited to: debris basins east of Gilman Springs Road; water reservoirs and access roads northeast, north, and west of the Project site; SR-60 interchange improvements; and roadway, water, sewer, drainage, and utility improvements extending north and west from the Project.
 48. The Project includes pre-annexation and zoning of LD within the WLCSP for an 85- acre parcel located on the north side of Alessandro Boulevard at Gilman Springs Road, currently located within unincorporated Riverside County and within the City's Sphere of Influence. The current land use designation for this parcel is W-2-2½, which allows single-family residential and light agriculture. The City's General Plan designates the site Business Park (BP)
 49. The Project includes a Tentative Parcel Map to subdivide 1,539 acres of the Project site owned by Highland Fairview for financing purposes.
 50. The Project also includes approval of a Development Agreement between the Project applicant and the City of Moreno Valley.
 51. Project Objectives stated in the EIR include the following:
 - a. Create substantial employment opportunities for the citizens of Moreno Valley and surrounding communities.
 - b. Provide the land use designation and infrastructure plan necessary to meet current market demands and to support the City's Economic Development Action Plan.
 - c. Create a major logistics center with good regional and freeway access.
 - d. Establish design standards and development guidelines to ensure a consistent and attractive appearance throughout the entire project.
 - e. Establish a master plan for the entire project area to ensure that the project is efficient and business-friendly to accommodate the next-generation of logistics buildings.
 - f. Provide a major logistics center to accommodate a portion of the ever-expanding trade volumes at the Ports of Los Angeles and Long Beach
 - g. Create a project that will provide a balanced approach to the City's fiscal viability, economic expansion, and environmental integrity.

- h. Provide the infrastructure improvements required to meet project needs in an efficient and cost-effective manner.
- i. Encourage new development consistent with regional and municipal service capabilities.
- j. Significantly improve the City's jobs/housing balance and help reduce unemployment within the City.
- k. Provide thousands of construction job opportunities during the Project's buildout phase.
- l. Provide appropriate transitions between on-site and off-site uses.

52. The EIR considered five (5) alternatives to the Project: (1) No Project/ No Build; (2) No Project/ Existing General Plan; (3) Alternative 1: Reduced Density; (4) Alternative 2: Mixed Use Alternative; (5) Alternative 3: Mixed Use B Alternative. Alternative 1: Reduced Density was deemed to be the environmentally superior alternative.

53. The EIR stated the Project would emit more than 379,824 metric tons of CO₂e per year. The EIR posited, however, that because of compliance with the Cap-and-Trade regulation, project-specific GHG emissions that are covered by the regulation would be fully mitigated.

54. The Final EIR assumed a truck trip length of 30- 40 miles.

Administrative Approval Process

55. An Initial Study and Notice of Preparation issued for the Project on February 25, 2012.

56. The City received letters from 27 different agencies, organizations, and individuals in response to the Notice of Preparation during the 30-day public review period. The City determined all environmental issues needed to be addressed in an EIR.

57. A public scoping meeting was held March 12, 2012 to solicit further comments as regarding the scope of the EIR.

58. The Draft EIR was circulated for a public review period of 63 days, from February 4, 2013 to April 8, 2013.

59. A total of 144 comment letters were received during the DEIR public comment period. In addition, several letters were received after the close of the public comment period.

60. On May 1, 2015 in accordance with Public Resources Code Section 21092.5, the City provided written responses to public agencies that commented on the DEIR.

- 1 61. Also on May 1, 2015, the City circulated the FEIR for a 45- day review period.
- 2 62. The Planning Commission held hearings on the Project on June 11th, 25th, and 30th, 2015. At the
- 3 June 30, 2015 meeting the Planning Commission voted to recommend approval of the Project to
- 4 the City Council.
- 5 63. The City Council held hearings on the Project on August 17th, 18th, and 19th, 2015. At the close
- 6 of the meeting on August 19, 2015, the City Council voted to approve the Project including
- 7 adoption of Resolutions 2015- 56, -57, -58, -59: introduction and first reading of Ordinance Nos.
- 8 900 and 901; and adoption of CSD Resolution No. 2015-29 in the Council's role as the Board of
- 9 the CSD.
- 10 64. The EIR finds that the Project will have significant and unavoidable impacts to the environment
- 11 in the areas of aesthetics, air quality, land use and planning, noise, and transportation. All other
- 12 impacts would be less than significant or reduced below a level of significance with mitigation
- 13 incorporated.
- 14 65. The City found the approval of the Project was supported by overriding considerations.
- 15 66. Second Reading of Ordinance Nos. 900 and 901 occurred on August 25, 2015.
- 16 67. The Notice of Determination was filed and posted August 26, 2015.
- 17 68. This Petition is timely filed pursuant to Public Resources Code § 21167, CEQA Guidelines §
- 18 15112, and Government Code § 65009.
- 19 69. The City's approval of the Project will cause Petitioner irreparable injury for which Petitioner
- 20 has no adequate remedy at law. Petitioner and its members will be irreparably harmed by the
- 21 City's actions in approving the Project. Petitioner was harmed by, among other things, the failure
- 22 of the City in its preparation of the EIR to adequately evaluate the potential impacts of the
- 23 Project and the City's approval of the Project without providing adequate and effective
- 24 mitigation measures contrary to the requirements of State law.
- 25 70. Petitioner has performed all conditions precedent to filing the action by complying with the
- 26 requirements of Public Resources Code § 21167.5 by providing written notice of the intent to file
- 27 this petition for writ of mandate (attached hereto as Exhibit "A"), and by complying with the
- 28 requirements of Public Resources Code § 21167.6, in notifying the City of Petitioner's election

1 to prepare the record proceedings in connection with this action (attached hereto as Exhibit "B").
2
3 71. The maintenance of this action is for the purpose of enforcing important public policies of the
4 State of California with respect to the protection of the environment and public participation
5 under CEQA and other State laws. The maintenance and prosecution of this action will confer a
6 substantial benefit upon the public by protecting the public from environmental harms and other
7 harms alleged in this Petition. As such, Petitioner is acting as a private attorney general to
8 enforce these public policies and prevent such harm and is entitled to the recovery of reasonable
9 attorneys' fees under Code Civ. Proc. § 1021.5.

10 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11 72. Members of Petitioner and counsel on Petitioner's behalf commented orally and in writing to the
12 City requesting that the City comply with State law and CEQA, including full and adequate
13 environmental review. Petitioner objected to Project approval to the City and its City Council,
14 and commented that the City failed to comply with CEQA requirements in approving the Project.

15 73. All issues raised in this Petition were previously raised to the City and its City Council by
16 Petitioner, other members of the public, organization, and/or public agencies prior to approval of
17 the Project.

18 74. Petitioner has exhausted administrative remedies pursuant to the requirements of Public
19 Resources Code § 21177 and to the extent otherwise required by law.

20 **FIRST CAUSE OF ACTION**

21 **(WRIT OF MANDATE- VIOLATIONS OF THE CALIFORNIA ENVIRONMENTAL
22 QUALITY ACT, AS TO ALL PARTIES)**

23 **a. The EIR Did Not Provide an Accurate, Consistent, and Complete Project
24 Description**

25 75. Petitioner hereby realleges and incorporates paragraphs 1 through 74 by reference with the same
26 force and to the same extent as though set forth at length herein.

27 76. CEQA requires that the nature and objectives of a project be disclosed and that the lead agency
28 fully evaluate the whole of an action that will have a significant effect on the environment. (Pub.
Res. C. § 21065, California Code of Regulations, tit. 14 §§ 15124, 15378(a).)

77. The project description must be complete, accurate and consistent throughout the EIR. "An

1 accurate, stable and finite project description is the *sine qua non* of an informative and legally
2 sufficient EIR.” (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) (*County*
3 *of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-193.)

4
5 78. A project description that omits mention of an integral part of the project is incomplete. (*San*
6 *Joaquin Raptor/ Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 729-
7 734.)

8 79. “[A]n accurate project description is necessary for an intelligent evaluation of the potential
9 environmental effects of a proposed activity” and to “ascertain the project’s environmentally
10 significant effects, assess ways of mitigating them, and consider project alternatives.” (*San*
11 *Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730;
12 *Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 533.)

13 80. The project description should account for reasonably foreseeable future phases and future
14 consequences of a project. (*Laurel Heights Improvement Association v. Regents of the*
15 *University of California* (1988) 47 Cal.3d 376, 393-399.)

16 81. The Project description in the EIR is not complete, accurate and/or consistent throughout the
17 EIR, and fails to describe the true scope of the Project.

18 82. The Project description fails to include accurate details regarding the Project’s size and the
19 nature of its immediate surroundings, and is misleading. For example, referring to the CDFW
20 owned conservation land as a “buffer area” misleads the public as to potential impacts within
21 that preserved area and Highland Fairview control of that area.

22 83. The Project description in the EIR is not inaccurate and is inconsistent throughout the EIR, and
23 fails to describe the true scope of the Project, where at times a 3,714- acre Project is referenced,
24 at other times only the 2,610- acre WLCSP is discussed.

25 84. The Project described and analyzed in the EIR fails to adequately address the various approvals
26 beyond the WLCSP needed to effectuate the Project. For example, “text modifications”
27 anticipated and later made with the General Plan Amendment are not disclosed or addressed in
28 the EIR. The General Plan Amendment makes long-lasting and city-wide modifications to the
General Plan, such as changing General Plan Buildout Noise Contours, Figure 6-2, and

1 Technical Data to Accompany Buildout Noise Contour Map. The development agreement is not
2 incorporated in any detail and its effects not addressed. Likewise the tentative parcel map and
3 pre-annexation zoning.

- 4
5 85. The Project description in the EIR also misleads the public and decision makers about
6 improvements to SR-60, where improvements planned by Caltrans or within the Caltrans right-
7 of-way may not be completed as part of the Project or otherwise.
- 8 86. The Project description in the EIR fails to include the request to the Riverside Local Agency
9 Formation Commission initiate proceedings for the expansion of the Community Services
10 District boundary to include approximately 85-acre annexation parcel.
- 11 87. Objections made to the City and City Council by individuals, organizations, and agencies stated
12 the Project description was inconsistent throughout the EIR, failed to describe and analyze the
13 whole action being proposed, and failed to provide needed information to the public and
14 decision-makers. Commenters noted the FEIR only referred in general terms to the General Plan
15 amendments needed to effectuate the Project, despite such amendments having city-wide and
16 long lasting impacts. Also, other approvals, such as the development agreement and the tentative
17 tract map, were likewise only briefly touched on and not detailed. The Project area was also
18 inconsistently defined to include just the WLCSP in some areas, a "CDFW Conservation Buffer
19 Area" others, etc.
- 20 88. The Project description was also inconsistent from the Draft EIR to the Final EIR.
- 21 89. Commenters noted the changes to the Project description between the Draft and Final EIRs
22 undermined the informative, disclosure, and public participation role of the EIR. Commenters
23 also stated the Final EIR was inadequate where studies were not revised despite changes in the
24 Project description.
- 25 90. By failing to provide a complete, consistent, and accurate project description in the EIR, the City
26 committed a prejudicial abuse of discretion for which the Project approvals must be set aside.
27 (Public Resources Code §§ 21168, 21168.5, Code Civ. Proc. §§ 1094.5, 1085.)
28 **b. The EIR Failed to Disclose Relevant Information and Adequately Evaluate and
Disclose Project Impacts**
91. Petitioner hereby realleges and incorporates paragraphs 1 through 90 by reference with the same

1 force and to the same extent as though set forth at length herein.

2 92. An EIR is an informational document intended to inform agency decision-makers and the public
3 of the significant environmental effects of a project and minimize those significant effects
4 through the implementation of mitigation measures or project alternatives. (Public Resources
5 Code § 21061; California Code of Regulations, tit. 14 § 15121.)

6 93. CEQA requires that an EIR be adequate, complete, and evidence a good faith effort at full
7 disclosure. (California Code of Regulations, tit. 14 § 15003(i).)

8 94. An adequate EIR must include enough relevant information to permit full assessment of
9 significant environmental impacts by the public and reviewing agencies. (California Code of
10 Regulations, tit. 14 § 15147.)

11 95. An EIR must identify and focus on the possible significant environmental effects of a proposed
12 project. Only effects which are clearly insignificant or unlikely to occur need not be discussed in
13 the EIR and, for those clearly insignificant and unlikely impacts, the Initial Study may be
14 attached to provide a basis for limiting the impacts discussed. (Pub. Res. C. § 21100, California
15 Code of Regulations, tit. 14 §§ 15126, 15126.2, 15143.)

16 96. An adequate EIR must evaluate all potentially significant environmental impacts of a proposed
17 project, including both direct and indirect impacts, short-term and long-term impacts, local and
18 regional impacts, and cumulative impacts. (California Code of Regulations, tit. 14 §§ 15126,
19 15126.2, 15130)

20 97. CEQA provides that the failure to comply with CEQA's information disclosure provisions can
21 result in a prejudicial abuse of discretion regardless of whether a different outcome would have
22 been reached if the agency had complied. (Public Resources Code § 21005 (a))

23 98. The EIR failed to adequately evaluate the impacts of the entire Project.

24 99. Members of Petitioner and others commented the EIR failed to evaluate impacts of amendments
25 to the General Plan and other changes not encompassed within the Specific Plan.

26 100. The EIR failed to adequately evaluate project impacts and/ or disclose relevant
27 information with respect to, at least, aesthetics, air quality/ health risks, agricultural resources,
28 biological resources, cultural resources, geology/soils, greenhouse gas emissions,

1 hydrology/water quality, hazards/hazardous materials, land use/planning, noise, traffic, and water
2 supply, among other things.

3 101. Petitioner and others commented that the EIR failed to adequately evaluate Project
4 impacts and disclose relevant information. By way of example, CARB and SCAQMD
5 commented that the EIR failed to adequately evaluate Project health risk impacts from trucks
6 accessing the Project site by relying almost entirely on an Advanced Collaborative Emissions
7 Study (ACES) of diluted NO₂ exposure impacts on rats, to the exclusion of countless prior studies
8 and data evaluating Diesel particulate matter (PM), NO_x, and NO₂ health risks to humans. As
9 another example, objections submitted to the City indicated the EIR failed to adequately evaluate
10 and analyze noise impacts, including to/ from traffic noise and from the General Plan
11 Amendment. Further criticisms of the EIR explained the traffic study understated traffic
12 generation on the basis of faulty data, and understated trip length based on no substantial
13 evidence given port-related truck trips. The EIR analysis of GHG emissions and impacts was
14 also extensively flawed. Petitioner and others further cited the substantial flaws in the EIR by
15 failing to evaluate and disclose impacts of siting the Project adjacent to sensitive, threatened, and
16 endangered habitats and species, and other areas of biological significance.

17 102. By failing to adequately evaluate and disclose Project impacts and needed information,
18 the City committed prejudicial abuses of discretion for which the Project approvals must be set
19 aside. (Public Resources Code §§ 21168, 21168.5, Code Civ. Proc. §§ 1094.5, 1085.)

20 **c. The EIR Failed to Adequately Analyze Cumulative and Regional Impacts**

21 103. Petitioner hereby realleges and incorporates paragraphs 1 through 102 by reference with
22 the same force and to the same extent as though set forth at length herein.

23 104. CEQA requires the EIR describe and evaluate impacts of the Project from both a local
24 and regional perspective. (California Code of Regulations, tit. 14 § 15125(a),(c), 15126.2)

25 105. CEQA requires that the cumulative impacts of a project be addressed when the project's
26 incremental effect is cumulatively considerable. (California Code of Regulations, tit. 14 §
27 15130(a).)

28 106. Cumulative impacts are impacts on the environment that result from the incremental

1 impacts of a proposed action when added to other past, present, and reasonably foreseeable
2 future actions (California Code of Regulations, tit. 14 § 15355(b).) Such impacts can result from
3 individually minor but collectively significant actions taking place over time.
4

5 107. While the CEQA Guidelines do not require the discussion of cumulative impacts to be as
6 detailed as the analysis of the project itself, the EIR must still provide a reasonable level of
7 detail. (California Code of Regulations, tit. 14 § 15130)

8 108. The EIR failed to adequately evaluate the regional and cumulative impacts of the Project

9 109. Petitioners and others commented the EIR failed to adequately consider regional and
10 cumulative impacts where the Project would comprise almost 10% of the total warehousing
11 space project to be needed in the region by 2035 and impact the region in terms of transit, air
12 quality, noise, etc.

13 110. By failing to adequately analyze regional and cumulative impacts, the City committed a
14 prejudicial abuse of discretion for which the Project approvals must be set aside. (Public
15 Resources Code §§ 21168, 21168.5, Code Civ. Proc. §§ 1085, 1094.5.)

16 **d. The City Failed to Adopt all Feasible Mitigation Measures and Improperly Rejected
17 Mitigation Measures without Adequate Findings.**

18 111. Petitioner hereby realleges and incorporates paragraphs 1 through 110 by reference with
19 the same force and to the same extent as though set forth at length herein.

20 112. CEQA establishes a duty on the part of the lead agency to mitigate all significant
21 environmental impacts. (Public Resources Code §§ 21002, 21002.1; California Code of
22 Regulations, tit. 14 § 15021(a).)

23 113. A lead agency may not approve a project for which there are significant environmental
24 impacts unless the agency finds that: (a) mitigation measures have been required of the project
25 which avoid or substantially lessen the significant environmental effects, or (b) mitigation
26 measures are found to be infeasible based on substantial evidence. (Public Resources Code §
27 21081; California Code of Regulations, tit. 14 § 15091.)

28 114. A lead agency may not adopt a statement of overriding considerations for significant
project impacts unless all feasible mitigation has been required of the project, or the agency
makes findings, supported by substantial evidence, of the infeasibility of said measures. (Public

1 Resources Code §§ 21081, 21081.5; California Code of Regulations, tit. 14 § 15091.)

2
3 115. An adequate EIR must respond to specific suggestions for mitigating a significant
4 environmental impact with a good faith reasoned analysis, unless the suggested mitigation is
5 facially infeasible. (*Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal. App.
6 4th 1019, 1029.)

7
8 116. The City failed to adopt all feasible mitigation for the Project and failed to respond in
9 good faith to recommended mitigation measures.

10
11 117. The City also failed to support the rejection of mitigation with findings, supported by
12 substantial evidence, that said measures were infeasible.

13
14 118. Petitioner and others commented that not all feasible mitigation was required of this
15 Project, and proposed additional feasible mitigation measures to lessen the Project's
16 environmental impacts. For example, comments noted the City failed to adopt all feasible
17 mitigation for Project noise impacts.

18
19 119. Myriad individuals, organizations, and agencies suggested feasible mitigation measures
20 to reduce health risks and air quality impacts from this Project, including zero emissions
21 technologies. Substantial evidence did not support City rejection of these feasible mitigation
22 measures.

23
24 120. Criticisms to the City also included the City's failure to require any mitigation for the
25 state highway system where some manner of mitigation (e.g. fair-share plan) was feasible.
26 Substantial evidence did not support the City's rejection of this proposed mitigation.

27
28 121. The City improperly adopted a statement of overriding considerations when feasible
mitigation existed to lessen Project impacts. (Public Resources Code § 21081; California Code of
Regulations, tit. 14 § 15092.)

122. By approving the Project when feasible mitigation existed to reduce Project impacts, the
City committed a prejudicial abuse of discretion for which the Project approvals must be set
aside. (Public Resources Code §§ 21168, 21168.5, Code Civ. Proc. §§ 1085, 1094.5.)

e. Mitigation Measures are Uncertain, Unenforceable, and Improperly Deferred.

123. Petitioner hereby realleges and incorporates paragraphs 1 through 122 by reference with

1 the same force and to the same extent as though set forth at length herein.

2 124. CEQA requires that a public agency ensure that mitigation measures are fully
3 enforceable, certain to occur, and not improperly deferred. (Public Resources Code § 21081.6
4 (b); California Code of Regulations, tit. 14 § 15097)

5 125. The City approved the Project where mitigation measures are uncertain to occur,
6 unenforceable, improperly deferred, and/or are based on deferred analysis.

7 126. Petitioner and others commented that mitigation measures adopted for the Project are
8 uncertain, unenforceable and improperly deferred in violation of CEQA. For instance, the
9 required payments of fees to mitigate for traffic/ transportation impacts acted to simply disregard
10 CEQA's mitigation requirement where no fee program exists, and where the City made no effort
11 to establish such a program itself or jointly with Caltrans. Comments submitted to the City
12 opposed Project approval where mitigation measures adopted for the Project improperly deferred
13 needed studies through mitigation.

14 127. By approving the Project when mitigation measures are not fully enforceable, the City
15 committed a prejudicial abuse of discretion for which the Project approvals must be set aside.
16 (Public Resources Code §§ 21168, 21168.5, Code Civ. Proc. §§ 1094.5, 1085.)

17 **f. The City Improperly Rejected Feasible Project Alternatives.**

18 128. Petitioner hereby realleges and incorporates paragraphs 1 through 126 by reference with
19 the same force and to the same extent as though set forth at length herein.

20 129. A lead agency may also not approve a project for which there are significant
21 environmental effects unless it makes findings supported by substantial evidence that alternatives
22 are infeasible. (Public Resources Code §§ 21002, 21081 (a)(3); California Code of Regulations,
23 tit. 14 § 15091 (a)(3).)

24 130. The EIR analyzed five alternatives to the Project:

- 25 a. No Project – No Build Alternative;
26 b. No Project-- No Project/ Existing General Plan;
27 c. Alternative 1: Reduced Density;
28 d. Alternative 2: Mixed Use Alternative; and

1 e. Alternative 3: Mixed Use B Alternative.

2 131. Petitioner commented that the City failed to make adequate findings supported by
3 substantial evidence that Project Alternatives, including the environmentally superior Reduced
4 Density Alternative, were infeasible as required by Public Resources Code § 21081 (a)(3) and
5 California Code of Regulations, tit. 14 § 15091 (a)(3). Petitioner commented that the Reduced
6 Density Alternative must be adopted in lieu of the Project as the Alternative would satisfy most,
7 if not all, Project objectives, and would significantly reduce Project significant effects.

8 132. The City failed to make adequate findings supported by substantial evidence that Project
9 Alternatives, including the environmentally superior Reduced Density Alternative, were
10 infeasible as required by Public Resources Code § 21081 (a)(3) and California Code of
11 Regulations, tit. 14 § 15091 (a)(3).

12 133. By failing to make adequate findings regarding infeasibility of alternatives based on
13 substantial evidence, the City committed a prejudicial abuse of discretion for which the Project
14 approvals must be set aside. (Public Resources Code §§ 21168, 21168.5, Code Civ. Proc.
15 §§1094.5, 1085.)

16 **g. The City Failed to Adequately Evaluate and Respond to Comments in the Final EIR**

17 134. Petitioner hereby realleges and incorporates paragraphs 1 through 133 by reference with
18 the same force and to the same extent as though set forth at length herein.

19 135. CEQA requires that the lead agency evaluate comments received on environmental issues
20 and prepare a written response to those comments. (Pub. Res. C. § 21091 (d)(2)(B), California
21 Code of Regulations, tit. 14 § 15088)

22 136. The response to comments must demonstrate a good faith, reasoned analysis. Conclusory
23 statements unsupported by factual information are insufficient. (California Code of Regulations,
24 tit. 14 § 15088(c))

25 137. If comments are received from a public agency, the lead agency must provide a written
26 response to those comments at least 10 days prior to certifying an EIR. (California Code of
27 Regulations, tit. 14 § 15088(b))

28 138. The City failed to adequately respond to comments in the Final EIR by failing to address

1 the comments made and failing to respond in good faith to comments.

2 139. Petitioner, individuals, organizations, and agencies each commented that the City failed
3 to adequately and in good faith respond to comments made in the Final EIR. The responses
4 provided by the City in the Final EIR failed to address the substance of the comments made.

5 140. By failing to provide adequate responses to comments, the City committed a prejudicial
6 abuse of discretion for which the Project approvals must be set aside. (Public Resources Code
7 §§ 21168, 21168.5, Code Civ. Proc. §§ 1094.5, 1085.)

8 **h. The City Failed to Comply with CEQA by failing to Revise and Recirculate the EIR.**

9 141. Petitioner hereby realleges and incorporates paragraphs 1 through 140 by reference with
10 the same force and to the same extent as though set forth at length herein.

11 142. The purposes of CEQA are two-fold and include: (1) avoiding or reducing environmental
12 damage of a project and (2) informing “the public and its responsible officials of the
13 environmental consequences of their decisions before they are made.” (*Laurel Heights*
14 *Improvement Ass’n v. Regents of Univ. of Cal.* (1993) 6 Cal. 4th 1112, 1123; *Citizens of Goleta*
15 *Valley, supra*, 52 Cal.3d 553; Pub. Res. C. §§ 21002, 21002.1, 21005 (a); California Code of
16 Regulations, tit. 14 § 15002 (a) (1)-(3).)

17 143. When the lead agency completes preparation of the draft EIR, it is required to consult
18 with and request comments from responsible agencies, trustee agencies, any other agencies with
19 jurisdiction with respect to the project, any city or county which borders the project,
20 transportation planning agencies (if the project is of statewide, areawide, or regional
21 significance), etc. (California Code of Regulations, tit. 14 § 15086)

22 144. When the lead agency completes preparation of the draft EIR, it is also required to
23 provide public notice of the availability of the draft EIR. (California Code of Regulations, tit. 14
24 § 15087)

25 145. The lead agency must evaluate and respond to comments on environmental issues
26 received from persons and agencies that commented on the draft EIR during the public comment
27 period. (California Code of Regulations, tit. 14 § 15088)

28 146. A lead agency is required to recirculate an EIR when significant new information is

1 added to the EIR after public notice is given of the availability of the draft EIR for public review
2 under Section 15087 but before certification. The lead agency must evaluate and respond to
3 comments received in this new review period. (California Code of Regulations, tit. 14 §§ 15088,
4 15088.5(a), (f).)

5
6 147. “New significant information” includes, for example: (a) A new significant
7 environmental impact would result from the project or from a new mitigation measure proposed
8 to be implemented; (b) A substantial increase in the severity of an environmental impact would
9 result unless mitigation measures are adopted that result unless mitigation measures are adopted
10 that reduce the impact to a level of insignificance; (c) A feasible project alternative or mitigation
11 measure considerably different from others previously analyzed would clearly lessen the
12 environmental impacts of the project, but the proponents decline to adopt it; (d) the draft EIR
13 was so fundamentally inadequate and conclusory in nature that meaningful public review and
14 comment were precluded. (California Code of Regulations, tit. 14 § 15088.5(a).)

15 148. New significant information may include changes in the project or environmental setting
16 as well as additional data or other information. (California Code of Regulations, tit. 14 §
17 15088.5(a).)

18 149. Information is deemed “significant” if the EIR is, or would be, changed in a way that
19 deprives the public of a meaningful opportunity to comment upon a substantial adverse
20 environmental effect of the project or a feasible way to mitigate or avoid such an effect.
21 (California Code of Regulations, tit. 14 § 15088.5(a).)

22 150. “Recirculation is not required where the new information added to the EIR merely
23 clarifies or amplifies or makes insignificant modifications in an adequate EIR.” (California Code
24 of Regulations, tit. 14 § 15088.5(b).)

25 151. The decision not to revise an EIR, and/or the decision not to recirculate an EIR, must be
26 supported by substantial evidence in the administrative record. (California Code of Regulations,
27 tit. 14 § 15088.5(e); *Western Placer Citizens for an Agric. & Rural Env't v. County of Placer*
28 (2006) 144 Cal.App.4th 890, 899-904; *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74,
95.)

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152. The Final EIR prepared for the Project included substantial modifications including changes to the Project description, informational changes, revisions to technical reports, etc. that mandated EIR recirculation as the draft EIR was so fundamentally and basically inadequate as to be essentially meaningless.
153. The Final EIR prepared for the Project included substantial modifications in terms of new information related to new impacts, substantial increase and/or decrease in the severity of impacts, and feasible alternatives and mitigation measures.
154. Comments to the City stated significant new information was added to the EIR requiring recirculation because the EIR was modified in a way that deprived the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect. For example, the Advanced Collaborative Emissions Study (ACES) study was added and then relied on to the exclusion of prior Draft EIR studies to finding the Project would not present a significant health risk.
155. Comments submitted to the City stated recirculation of the EIR was needed where the Final EIR included selective and arbitrary new data and information in its analysis of the Project's impacts and mitigation measures, while in other instances failing to correspondingly update the document. Changes to the Project description, technical studies, noise impacts, and the addition of a Municipal Code Amendment also triggered the need to recirculate.
156. Revision and recirculation of the Final EIR was essential to address comments made by the various individuals, organizations, and agencies and to provide a meaningful and adequate discussion of Project impacts.
157. Comments were made which stated the City must revise and recirculate the EIR to comply with CEQA. For example, Center for Biological Diversity and San Bernardino Valley Audubon Society commented the EIR needed to be revised and recirculated to adequately address impacts to biological resources, GHGs, water supply, and water quality. CARB commented the EIR should be revised and recirculated to address the feasibility of zero- or near-zero emission technologies; and to cure the inadequacies in the Project's health risk assessment. Earthjustice, on behalf of Center for Community Action and Environmental Justice, commented

1 the EIR needed to be revised and recirculated to provide critical information about the project
2 and its impacts. Others commented the EIR needed to be revised and recirculated to address
3 changes to the Project description and Project made before Final EIR certification which
4 undermined the adequacy of the EIR and its studies.

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6 158. By failing to revise the EIR, failing to recirculate the EIR, and failing to support the
7 decisions not to revise and recirculate the EIR with substantial evidence in the record, the City
8 committed prejudicial abuses of discretion for which the Project approvals must be set aside.

9 (Public Resources Code §§ 21168, 21168.5, Code Civ. Proc. §§ 1094.5, 1085.)

10 **i. The City failed to Adopt Legally Adequate Findings based on Substantial Evidence
in the Record.**

11 159. Petitioners hereby reallege and incorporate paragraphs 1 through 158 by reference with
12 the same force and to the same extent as though set forth at length herein.

13 160. A lead agency approving a project for which one or more significant effects have been
14 identified must make written findings for each significant effect accompanied by a brief
15 explanation for the rationale of each finding. The possible findings include: (1) Changes or
16 alterations have been required in, or incorporated into, the project which avoid or substantially
17 lessen the significant environmental effect as identified in the final EIR; (2) Such changes or
18 alterations are within the responsibility and jurisdiction of another public agency and not the
19 agency making the finding. Such changes have been adopted by such other agency or can and
20 should be adopted by such other agency; or (3) Specific economic, legal, social, technological, or
21 other considerations, including provision of employment opportunities for highly trained
22 workers, make infeasible the mitigation measures or project alternatives identified in the final
23 EIR. (California Code of Regulations, tit. 14 § 15091 (a))

24 161. Findings must be supported by substantial evidence in the record. (California Code of
25 Regulations, tit. 14 § 15091 (b))

26 162. The City made written findings that were unsupported by substantial evidence in the
27 record.
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163. Comments submitted to the city prior to Project approval stated the required findings could not be made and were not supported by substantial evidence, particularly where feasible mitigation and/ or alternatives were available to reduce the significant effects of the Project.

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164. By failing to make findings supported by substantial evidence in the record, the City committed a prejudicial abuse of discretion for which the Project approvals must be set aside. (Public Resources Code §§ 21168, 21168.5, Code Civ. Proc. §§1094.5, 1085.)

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j. The City's Adoption of the Statement of Overriding Considerations was Improper and not supported by Substantial Evidence

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165. Petitioner hereby realleges and incorporates paragraphs 1 through 164 by reference with the same force and to the same extent as though set forth at length herein.

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166. Under CEQA, the purpose of a statement of overriding considerations is to balance the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental harms. (Public Resources Code § 21081 (b); California Code of Regulations, tit. 14 § 15093) A statement of overriding considerations must be supported by substantial evidence in the record. (Public Resources Code § 21081.5; California Code of Regulations, tit. 14 § 15093 (b).)

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167. The City adopted a statement of overriding considerations at the time of Project approval relative to the Project's significant impacts to aesthetics, air quality, land use and planning, noise, and transportation.

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168. The City found the overriding Project benefits outweigh the Project's unavoidable environmental harms.

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169. Petitioners and others commented that several of the purported "benefits" were not shown to occur on the basis of substantial evidence. The Statement of Overriding Considerations does not explain, on the basis of substantial evidence, why the specific significant effects of the Project are outweighed by the purported policy benefits of the Project, and fails to contain substantial evidence in support of the determination to override the significant effects of the Project.

28
170. The City improperly adopted a Statement of Overriding Considerations where the Statement was not supported by substantial evidence in the record. (Public Resources Code §

1 21081.5; California Code of Regulations, tit. 14 § 15093 (b).)

2
3 171. Furthermore, the City improperly adopted the Statement of Overriding Considerations
4 when feasible mitigation measures and Project alternatives existed. (Public Resources Code §
5 21081; California Code of Regulations, tit. 14 § 15092.)

6 172. By approving the Project where the Statement of Overriding Considerations was not
7 supported by substantial evidence in the record, and where feasible alternatives and mitigation
8 measures existed, the City committed prejudicial abuses of discretion for which the Project
9 approvals must be set aside. (Public Resources Code §§ 21168, 21168.5, Code Civ. Proc.
10 §§1094.5, 1085.)

11 **SECOND CAUSE OF ACTION**

12 **(WRIT OF MANDATE- VIOLATIONS OF THE CALIFORNIA GOVERNMENT CODE AND**
13 **MORENO VALLEY MUNICIPAL CODE, AS TO ALL PARTIES)**

14 173. Petitioner hereby realleges and incorporates paragraphs 1 through 172 by reference with
15 the same force and to the same extent as though set forth at length herein.

16 174. Government Code Sections 65300 *et seq.* requires that all development projects must be
17 consistent with the adopted general plan of the City. (Gov't. Code §§ 65300 *et seq.*, 65860,
18 *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1182-86)

19 175. Moreno Valley Municipal Code § 9.01.080 requires that all development be consistent
20 with the General Plan.

21 176. The Project is inconsistent with the City's General Plan, and that the City's findings that
22 the Project is consistent with the General Plan are unsupported by substantial evidence.

23 177. Petitioner and others commented the Project is inconsistent with the City's General Plan,
24 and that the City's findings that the Project is consistent with the General Plan are unsupported
25 by substantial evidence.

26 178. By approving the Project where the Project is inconsistent with the General Plan and
27 making findings of General Plan consistency which are unsupported by substantial evidence in
28 the record, the City committed prejudicial abuses of discretion for which the Project approvals
must be set aside. (Code Civ. Proc. §§1094.5, 1085.)

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THIRD CAUSE OF ACTION
**(WRIT OF MANDATE- VIOLATIONS OF THE VIOLATIONS OF THE CALIFORNIA
GOVERNMENT CODE AND MORENO VALLEY MUNICIPAL CODE, AS TO ALL
PARTIES)**

179. Petitioner hereby realleges and incorporates paragraphs 1 through 178 by reference with the same force and to the same extent as though set forth at length herein.

180. The City of Moreno Valley's Municipal Code § 9.02.050 provides amendments to zoning districts can be initiated by the following actions: (1) Recommendation of staff or the planning commission; (2) Recommendation of the city council; (3) An application from a property owner or his authorized agent, relating to his property, filed with all required applications; or (4) An application from any affected party, which does not request redistricting of property."

181. The City of Moreno Valley's Municipal Code § 9.02.040 provides amendments to the General Plan may be initiated by: (1) Recommendation of the planning commission and city council concurrence; (2) Recommendation of the city council; and (3) A privately filed application involving a change in land use designation for a specific property shall be submitted by the property owner or the owner's authorized agent and shall be accompanied by all required applications."

182. Petitioner is informed, believes, and thereon alleges the Zone Change and General Plan Amendment for the Project was initiated by Highland Fairview where it did and does not own all the property requested for rezoning or impacted by the General Plan Amendment.

183. Petitioner is informed, believes and thereon alleges the City did not independently recommend initiation of the Project's Zone Change or General Plan Amendment.

184. The City failed to comply with its Municipal Code in improperly initiating a Zone Change and General Plan Amendment.

185. The City of Moreno Valley's Municipal Code § 9.02.200 requires notice be provided to all owners of property within a 300 foot radius of the exterior boundary of a property involved in an planning/ zoning application (including for a General Plan Amendment) or posted in a

1 newspaper of general circulation in the City, at least ten (10) days prior to a public hearing. All
2 notices must include a description of the project and the property.

3
4 186. The City failed to comply with the public hearing and notification procedures set out in
5 its Municipal Code.

6 187. Citizens commented to the City that it failed to comply with the City's notice
7 requirements by failing to consider the General Plan Amendment applicable city-wide,
8 modifications to Cactus Avenue, and other aspects of the Project in providing hearing notices. As
9 a result, the City failed to comply with the notice requirement of its Municipal Code.

10 188. By approving the Project where the City failed to comply with the procedural
11 requirements of its Municipal Code, the City committed prejudicial abuses of discretion for
12 which the Project approvals must be set aside. (Code Civ. Proc. §§1094.5, 1085.)

13 WHEREFORE, Petitioner prays for the following relief on all causes of action:

14 189. For the Court's peremptory writ of mandate requiring the City to set aside its decision
15 certifying the EIR for the Project. (Public Resources Code §§ 21168, 21168.5, 21168.9, Code
16 Civ. Proc. §§1094.5, 1085)

17 190. For the Court's peremptory writ of mandate requiring the City and CSD to set aside their
18 decisions, determinations, and findings approving the Project. (Public Resources Code §§ 21168,
19 21168.5, 21168.9, Code Civ. Proc. §§1094.5, 1085)

20 191. For the Court's peremptory writ of mandate requiring that the City and CSD fully comply
21 with the requirements of CEQA, State law, and the City's Municipal Code prior to any future
22 approval of the Project. (Public Resources Code §§ 21168, 21168.5, 21168.9, Code Civ. Proc.
23 §§1094.5, 1085)

24 192. For a judgment enforcing the duty imposed upon the City by CEQA to adequately
25 address potential individual and cumulative impacts to the environment in any subsequent action
26 taken regarding the Project. (Public Resources Code §§ 21168, 21168.5, 21168.9, Code Civ.
27 Proc. §§1094.5, 1085)

28 193. For a judgment enforcing the duty imposed upon the City by CEQA to adequately
consider mitigation to reduce significant impacts in any subsequent action taken to approve the

1 Project. (Public Resources Code §§ 21168, 21168.5, 21168.9, Code Civ. Proc. §§1094.5, 1085)

2 194. For a judgment enforcing the duty imposed upon the City by CEQA to adopt a feasible
3 environmentally superior alternative to reduce significant impacts in any subsequent action taken
4 to approve the Project.

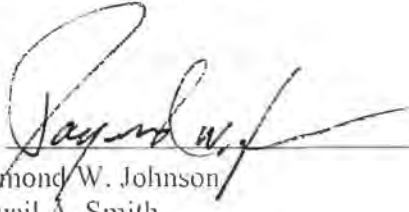
5 195. For a judgment requiring that the City prepare, circulate, and consider a new and legally
6 adequate Environmental Impact Report and otherwise comply with CEQA in any subsequent
7 action taken to approve this Project. (Public Resources Code §§ 21168, 21168.5, 21168.9, Code
8 Civ. Proc. §§1094.5, 1085)

9 196. For costs of this suit, including attorney's fees pursuant to Code of Civil Procedure §
10 1021.5 and other provisions of law.

11 197. For such other and further relief, including a stay or preliminary and permanent
12 injunctive relief, in the event that the Real Party in Interest, or its agents or instrumentalities,
13 intend to commence construction on the site. (Code of Civil Procedure § 526)

14
15 DATED: September 23 2015

16 Respectfully submitted,
17 JOHNSON & SEDLACK

18
19 By: 
20 Raymond W. Johnson
21 Abigail A. Smith
22 Kimberly Foy
23 Kendall Holbrook
24 Attorneys for Petitioner
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VERIFICATION

State of California)
) SS.
County of Riverside)

I, the undersigned, certify and declare that I have read the foregoing Petition for Writ of Mandate and know its contents. The statement following the box checked is applicable.

() I am a party to this action. The matters stated in the document described above are true of my own knowledge and belief except as to those matters stated on information and belief, and as to those matters I believe them to be true.

I am an officer () a partner () a member of RESIDENTS FOR A LIVABLE MORENO VALLEY, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the document described above are true.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Dated: September 23 2015

Tom Thornesley
By: Tom Thornesley

Verification

Exhibit "A"

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Exhibit A

Johnson Sedlack

ATTORNEYS AT LAW

Raymond W. Johnson, Esq., AICP, LEED GA
Carl T. Sedlack, Esq. Retired
Abigail A. Smith, Esq.
Kimberly Foy, Esq.
Kendall Holbrook, Esq.

26785 Camino Seco, Temecula, CA 92590

E-mail: EsqAICP@gmail.com

Abby.JSLaw@gmail.com
Kim.JSLaw@gmail.com
Kendall.JSLaw@gmail.com
Telephone: (951) 506-9925
Facsimile: (951) 506-9725

September 23, 2015

VIA U.S. MAIL AND EMAIL

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552
cityclerk@moval.org

Re: *Notice of Intent to File CEQA Petition in Matter of the Approval of World Logistics Center Project*

To the City of Moreno Valley:

PLEASE TAKE NOTICE, under Public Resources Code § 21167.5, that this letter serves as written notice of the intent of Petitioner, RESIDENTS FOR A LIVABLE MORENO VALLEY, to file a Petition for Writ of Mandate pursuant to the California Environmental Quality Act (Public Resources Code § 21000 et seq.) ("CEQA") regarding the CITY OF MORENO VALLEY and MORENO VALLEY COMMUNITY SERVICES DISTRICT'S approval of the WORLD LOGISTICS CENTER project, consisting of adoption of Resolution Nos. 2015-56, 2015-57, 2015-58, 2015-59, CSD2015-29, and Ordinance Nos. 900 and 901; which approvals included certifying an Environmental Impact Report ("EIR") (P12-016) (SCH # 2012021045) and associated actions, approvals, findings, and/or adoptions made on or about August 19, 2015 and August 25, 2015.

Sincerely,



Raymond W. Johnson
JOHNSON & SEDLACK
Attorneys for Residents for a
Livable Moreno Valley

Exhibit "B"

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Exhibit B

1 JOHNSON & SEDLACK
2 RAYMOND W. JOHNSON SBN 192708
3 ABIGAIL A. SMITH SBN 228087
4 KIMBERLY FOY SBN 259746
5 KENDALL HOLBROOK SBN 292754
6 26785 Camino Seco
7 Temecula, CA 92590
8 Telephone: (951) 506-9925
9 Facsimile: (951) 506-9725
10 Email: ray@socalceqa.com

11 Attorneys for Petitioners, Residents
12 For a Livable Moreno Valley

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF RIVERSIDE

15 RESIDENTS FOR A LIVABLE MORENO) CASE NO.:
16 VALLEY, an unincorporated association, and,)

17 Petitioner,)

18 v.)

19 CITY OF MORENO VALLEY, a public)
20 entity; CITY COUNCIL OF CITY OF)
21 MORENO VALLEY, a public entity;)
22 MORENO VALLEY COMMUNITY)
23 SERVICES DISTRICT, a public entity;)
24 MORENO VALLEY COMMUNITY)
25 SERVICES DISTRICT BOARD OF)
26 DIRECTORS, a public entity; and DOES 1-10,)
27 inclusive,)

28 Respondents,)

29 _____)
30 HIGHLAND FAIRVIEW, INC., a corporation;)
31 HIGHLAND FAIRVIEW, LLC, a limited)
32 liability company; HIGHLAND FAIRVIEW, a)
33 partnership; IDDO BENZEEVI, individually)
34 and as a partner of HIGHLAND FAIRVIEW)
35 partnership; IDDO BENZEEVI as a sole)
36 proprietor doing business as HIGHLAND)
37 FAIRVIEW; HF PROPERTIES, a general)
38 partnership; SUNNYMEAD PROPERTIES, a)
39 general partnership; THEODORE)
40 PROPERTIES PARTNERS, general)

41 **NOTICE OF PETITIONER'S ELECTION**
42 **TO PREPARE ADMINISTRATIVE**
43 **RECORD**

44 (Public Resources Code § 21167.6)

45 Judge:

46 Department:

47 Action Filed:

48 CASE DESIGNATION: CEQA

1 partnership; 13451 THEODORE, LLC, a
2 limited liability company; HL PROPERTY
3 PARTNERS, a general partnership; and DOES
4 11 through 100, inclusive,

4 Real Parties in Interest.

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1 Pursuant to Public Resources Code § 21167.6. Petitioner, RESIDENTS FOR A
2 LIVABLE MORENO VALLEY, hereby notifies Respondents, CITY OF MORENO VALLEY
3 and its CITY COUNCIL, and the MORENO VALLEY COMMUNITY SERVICES DISTRICT,
4 of Petitioner's election to prepare the administrative record of proceedings relating to this action,
5 including Respondents' approval of the WORLD LOGISTICS CENTER Project, including
6 adoption of Resolution Nos. 2015-56, 2015-57, 2015-58, 2015-59, CSD2015-29, and Ordinance
7 Nos. 900 and 901; certification of an Environmental Impact Report for the Project
8 (SCH#2012021045); and all associated approvals made on or about August 19, 2015 and August
9 25, 2015.
10

11 DATED: September 23, 2015

Respectfully submitted,
JOHNSON & SEDLACK

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14
15 By: 

Raymond W. Johnson
Abigail A. Smith
Kimberly Foy
Kendall Holbrook
Attorneys for Petitioner, Residents for a
Livable Moreno Valley
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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) JOHNSON & SEDLACK Raymond W. Johnson SBN 192708 Abigail A. Smith SBN 228087 Kimberly Foy SBN 259746 Kendall Holbrook SBN 292746 26785 Camino Seco, Temecula, CA 92590 E-Mail: Ray@SoCalCEQA.com TELEPHONE NO (951) 506-9925 FAX NO (951) 506-9725 ATTORNEY FOR (Name) Petitioner, Residents for a Livable Moreno Valley, et al.		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside STREET ADDRESS 4050 Main Street MAILING ADDRESS CITY AND ZIP CODE Riverside, CA 92501 BRANCH NAME Civil		
CASE NAME Residents for a Livable Moreno Valley v. City of Moreno Valley, et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal Rules of Court, rule 3.402)	CASE NUMBER JUDGE DEPT.

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re arbitration award (11) <input checked="" type="checkbox"/> Writ of mandate (02) CEQA <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input checked="" type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management: **CEQA**

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary, declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): **3**

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case (You may use form CM-015.)

Date: **September 23, 2015**
 Raymond W. Johnson
(TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code) (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

- | | |
|--|--|
| <input type="checkbox"/> BANNING 135 N Alessandro Rd., Banning, CA 92220 | <input type="checkbox"/> INDIO 46-200 Oasis St., Indio, CA 92201 |
| <input type="checkbox"/> BLYTHE 265 N Broadway, Blythe, CA 92225 | <input type="checkbox"/> MORENO VALLEY 13800 Heacock St., Ste. D201, Moreno Valley, CA 92553 |
| <input checked="" type="checkbox"/> RIVERSIDE 4050 Main St., Riverside, CA 92501 | <input type="checkbox"/> MURRIETA 30755-D Auld Rd., Suite 1226, Murrieta, CA 92563 |
| <input type="checkbox"/> HEMET 880 N State St., Hemet, CA 92543 | <input type="checkbox"/> TEMECULA 41002 County Center Dr Ste 100, Temecula, CA 92591 |

RI-030

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address) JOHNSON & SEDLACK Raymond W. Johnson, SBN 192708 Abigail A. Smith, SBN 228087 Kimberly Foy, SBN 259746 Kendall Holbrook, SBN 292754 26785 Camino Seco, Temecula, CA 92590 TELEPHONE NO (951) 506-9925 FAX NO. (Optional) (951) 506-9725 E MAIL ADDRESS (Optional): Ray@SoCalCEQA.com ATTORNEY FOR (Name) Petitioner, Residents for a Livable Moreno Valley & Sierra Club	FOR COURT USE ONLY <h1 style="margin: 0;">FILED</h1> Superior Court Of California County Of Riverside 09/23/2015 A.RANGEL BY FAX
PLAINTIFF/PETITIONER Residents for a Livable Moreno Valley DEFENDANT/RESPONDENT City of Moreno Valley, et al.	CASE NUMBER RIC1511421
CERTIFICATE OF COUNSEL	

All civil cases shall be filed in the following courthouses based on the zip code of the area in which the cause of action arose.

The undersigned certifies that this matter should be tried or heard in the following court:

- | | | | |
|--|---|--------------------------------|-----------------------------------|
| <input type="checkbox"/> Banning | <input type="checkbox"/> Blythe | <input type="checkbox"/> Hemet | <input type="checkbox"/> Murrieta |
| <input type="checkbox"/> Moreno Valley | <input checked="" type="checkbox"/> Riverside | <input type="checkbox"/> Indio | <input type="checkbox"/> Temecula |

For the reasons specified below:

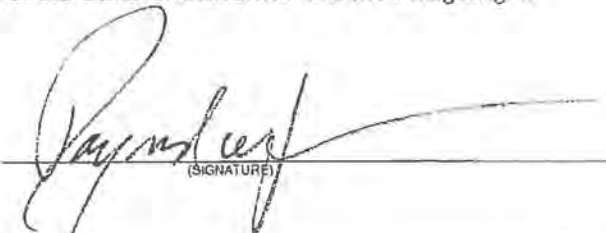
- The action arose in the zip code of: 92555 or CEQA
 City/Community of Moreno Valley
- The action concerns real property located in the zip code of _____ or
 City/Community of _____
- The Defendant resides in the zip code of _____ or
 City/Community of _____

For more information on where actions should be filed in the Riverside County Superior Courts, please refer to Local Rule 3115 at www.riverside.courts.ca.gov.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date 09/23/15

Raymond W. Johnson
(TYPE OR PRINT NAME OF ATTORNEY PARTY MAKING DECLARATION)


 (SIGNATURE)

1 JOHNSON & SEDLACK
2 RAYMOND W. JOHNSON SBN 192708
3 ABIGAIL A. SMITH SBN 228087
4 KIMBERLY FOY SBN 259746
5 KENDALL HOLBROOK SBN 292754
6 26785 Camino Seco
7 Temecula, CA 92590
8 Telephone: (951) 506-9925
9 Facsimile: (951) 506-9725
10 Email: ray@socalceqa.com

11 Attorneys for Petitioners, Residents for a Livable Moreno Valley

FILED

Superior Court Of California
County Of Riverside
09/23/2015
A.RANGEL
BY FAX

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF RIVERSIDE

14 RESIDENTS FOR A LIVABLE MORENO)
15 VALLEY, an unincorporated association, and,)

16 Petitioner,)

17 v.)

18 CITY OF MORENO VALLEY, a public)
19 entity; CITY COUNCIL OF CITY OF)
20 MORENO VALLEY, a public entity;)
21 MORENO VALLEY COMMUNITY)
22 SERVICES DISTRICT, a public entity;)
23 MORENO VALLEY COMMUNITY)
24 SERVICES DISTRICT BOARD OF)
25 DIRECTORS, a public entity; and DOES 1-10,)
26 inclusive,)

27 Respondents,)

28 HIGHLAND FAIRVIEW, INC., a corporation;)
HIGHLAND FAIRVIEW, LLC, a limited)
liability company; HIGHLAND FAIRVIEW, a)
partnership; IDDO BENZEEVI, individually)
and as a partner of HIGHLAND FAIRVIEW)
partnership; IDDO BENZEEVI as a sole)
proprietor doing business as HIGHLAND)
FAIRVIEW; HF PROPERTIES, a general)
partnership; SUNNYMEAD PROPERTIES, a)
general partnership; THEODORE)

CASE NO.: **RIC1511421**

NOTICE TO ATTORNEY GENERAL OF PETITION

(Pub. Res. Code § 21167.7)

Judge:
Department:

Action Filed:

CASE DESIGNATION: CEQA

1 PROPERTIES PARTNERS, general)
2 partnership; 13451 THEODORE, LLC, a)
3 limited liability company; HL PROPERTY)
4 PARTNERS, a general partnership; and DOES)
5 11 through 100, inclusive,)
6 _____)
7 Real Parties in Interest.)

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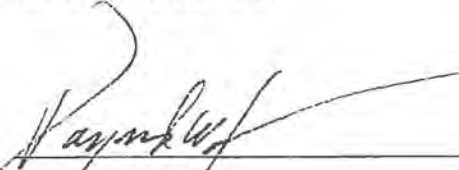
1 **TO THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA:**

2 **PLEASE TAKE NOTICE THAT**, pursuant to Public Resources Code § 21167.7, on
3 September 23, 2015, Petitioner, RESIDENTS FOR A LIVABLE MORENO VALLEY (“Petitioner”),
4 filed a Verified Petition for Peremptory Writ of Mandate (“Petition”) against Respondents, CITY OF
5 MORENO VALLEY and its CITY COUNCIL (“City”), and MORENO VALLEY COMMUNITY
6 SERVICES DISTRICT and its BOARD (“CSD”) (jointly, “Respondents”), and various Real Parties in
7 Interest, in the Superior Court of California, County of Riverside.

8 The Petition alleges, *inter alia*, that the City violated provisions of the Environmental Quality
9 Act, Public Resources Code § 21000, *et seq.* (“CEQA”) in connection with the City’s certification of the
10 Environmental Impact Report for, and approval of, the World Logistics Center Project. A copy of the
11 Petition is attached to this Notice.

12
13 DATED: September 23, 2015

Respectfully submitted,
JOHNSON & SEDLACK

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17 By: 
18 Raymond W. Johnson
19 Abigail A. Smith
20 Kimberly Foy
21 Kendall Holbrook
22 Attorneys for Petitioner
23
24
25
26
27
28

PROOF OF SERVICE AND CERTIFICATION

I am employed in the County of Riverside, State of California. I am over the age of 18 and not a party to the within action; my business address is 26785 Camino Seco, Temecula, CA, 92590.

On September 23, 2015, I served the foregoing document(s) described as:

NOTICE TO THE ATTORNEY GENERAL OF PETITION

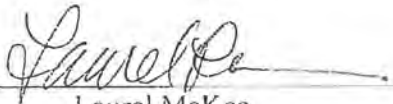
VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE

on ALL INTERESTED PARTIES in this action by causing a true copy thereof to be delivered to the addresses set forth:

Attorney General
State of California
1300 I Street
Sacramento, CA 95814
Telephone: (916) 322-3360
Via Overnight Delivery

X **BY OVERNIGHT DELIVERY:** I enclosed the above-listed document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the person(s) at the address(es) listed above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 23, 2015 at Temecula, California.



Laurel McKee

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF DEPARTMENT ASSIGNMENT

RESIDENTS VS CITY OF MORENO VALLEY

CASE NO. RIC1511421

This case has been assigned to the HONORABLE Judge Craig G. Riemer in Department 05 for all purposes.

Any disqualification pursuant to CCP section 170.6 shall be filed in accordance with that section.

The filing party shall serve a copy of this notice on all parties.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See California Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing NOTICE on this date, by depositing said copy as stated above.

Date: 09/24/15

Court Executive Officer/Clerk

by:


ANTHONY RANGEL, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF STATUS CONFERENCE

RESIDENTS VS CITY OF MORENO VALLEY

CASE NO. RIC1511421

The Status Conference is scheduled for:

DATE: 11/23/15
TIME: 8:30 a.m.
DEPT: 05

All matters including, but not limited to, Fast Track hearings, law and motion, and settlement conference hearings shall be heard by the assigned judge until further order of the Court.

Any disqualification pursuant to CCP 170.6 shall be filed in accordance with that section.

The plaintiff/cross-complainant shall serve a copy of this notice on all defendants/cross-defendants who are named or added to the complaint and file proof of service.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See CA Rules of Court, rule 1.100.

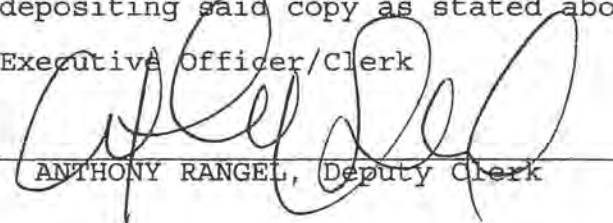
CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing Notice of Assignment To Department For Case Management Purposes and Status Conference on this date, by depositing said copy as stated above

Dated: 09/24/15

Court Executive Officer/Clerk

By:


ANTHONY RANGEL, Deputy Clerk

ac:stch shw

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)
Michelle Ouellette, SBN 145191; Charity Schiller, SBN 234291
Best Best & Krieger LLP
3390 University Avenue, 5th Floor, P. O. Box 1028
Riverside, CA 92502-1028
TELEPHONE NO (951) 686-1450 FAX NO (951) 686-3083
ATTORNEY FOR (Name) Petitioner/Plaintiff Riverside County Transportation Commission

CITY CLERK
MURENO VALLEY
15 SEP 18 PM 1:24

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
STREET ADDRESS 4050 Main Street
MAILING ADDRESS
CITY AND ZIP CODE Riverside, CA 92501
BRANCH NAME

CASE NAME: Riverside County Transportation Commission v. City of Moreno Valley, et al.

CIVIL CASE COVER SHEET
[X] Unlimited (Amount demanded exceeds \$25,000)
[] Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
[] Counter [] Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER (RICO) 1511130
JUDGE
DEPT

Items 1-6 below must be completed (see instructions on page 2).

- 1. Check one box below for the case type that best describes this case:
Auto Tort
Contract
Provisionally Complex Civil Litigation
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
Real Property
Unlawful Detainer
Judicial Review
Employment

- 2. This case [] is [X] is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
a. [] Large number of separately represented parties
b. [] Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. [] Substantial amount of documentary evidence
d. [] Large number of witnesses
e. [] Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. [] Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. [] monetary b. [X] nonmonetary; declaratory or injunctive relief c. [] punitive
4. Number of causes of action (specify): 2
5. This case [] is [X] is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)
Date: September 17, 2015
Michelle Ouellette/Charity Schiller

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE
Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220) Failure to file may result in sanctions.
File this cover sheet in addition to any cover sheet required by local court rule.
If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g. slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36) Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease
 - Contract *(not unlawful detainer or wrongful eviction)*
- Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
 - Collection Case—Seller Plaintiff
 - Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs check this item; otherwise, report as Commercial or Residential)*

Judicial Review

- Asset Forfeiture (05)
- Petition Re. Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
- Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case types listed above)* (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment *(non-domestic relations)*
 - Sister State Judgment
 - Administrative Agency Award *(not unpaid taxes)*
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint *(not specified above)* (42)
- Declaratory Relief Only
- Injunctive Relief Only *(non-harassment)*
- Mechanics Lien
- Other Commercial Complaint Case *(non-tort/non-complex)*
- Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief From Late Claim
- Other Civil Petition

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

- BANNING 311 E. Ramsey St., Banning, CA 92220
- BLYTHE 265 N. Broadway, Blythe, CA 92225
- HEMET 880 N. State St., Hemet, CA 92543
- MORENO VALLEY 13800 Heacock St., Ste D201
Moreno Valley, CA 92553

- MURRIETA 30755-D Auld Rd., Suite 1226, Murmeta, CA 92563
- PALM SPRINGS 3255 E Tahquitz Canyon Way, Palm Sprngs, CA 92262
- RIVERSIDE 4050 Main St., Riverside, CA 92501
- TEMECULA 41002 County Center Dr #100 Temecula, CA 92591

RI-030

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address) Michelle Ouellette, Bar No. 145191 Best Best & Krieger LLP 3390 University Ave., 5th Floor Riverside, CA 92501 TELEPHONE NO (951) 686-1450 FAX NO (Optional) E-MAIL ADDRESS (Optional) ATTORNEY FOR (Name) Petitioner/Plaintiff Riverside County Transp. Commission	FILED <small>FOR COURT USE ONLY</small> SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE SEP 17 2015 <u>R. Alessandro</u>
PLAINTIFF/PETITIONER Riverside County Transportation Commission DEFENDANT/RESPONDENT City of Moreno Valley, et al.	CASE NUMBER: RIC 1511130
CERTIFICATE OF COUNSEL	

The undersigned certifies that this matter should be tried or heard in the court identified above for the reasons specified below:

- The action arose in the zip code of: 92552
- The action concerns real property located in the zip code of: _____
- The Defendant resides in the zip code of: _____

For more information on where actions should be filed in the Riverside County Superior Courts, please refer to Local Rule 1.0015 at www.riverside.courts.ca.gov.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date September 17, 2015

Michelle Ouellette
(TYPE OR PRINT NAME OF ATTORNEY PARTY MAKING DECLARATION)


(SIGNATURE)

COPY

**SUMMONS
(CITACION JUDICIAL)**

NOTICE TO DEFENDANTS/RESPONDENTS:

(AVISO AL DEMANDADO):

CITY OF MORENO VALLEY, a municipal corporation; MORENO VALLEY COMMUNITY SERVICES DISTRICT, a dependent special district of the City of Moreno Valley; and DOES 1-20, inclusive

YOU ARE BEING SUED BY PLAINTIFF/PETITIONER:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

RIVERSIDE COUNTY TRANSPORTATION COMMISSION, a public agency

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 17 2015

R. Alessandro

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of the State of California, County of Riverside
4050 Main Street
Riverside, CA 92501

CASE NUMBER
(Número de Caso)
RTC 1511130

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Michelle Ouellette, Best Best & Krieger LLP
3390 University Avenue, 5th Floor, P. O. Box 1028
Riverside, CA 92502-1028

SEP 17 2015

R. Alessandro

DATE
(Fecha)

Clerk, by
(Secretario)

Deputy
(Adjunta)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
 under:

<input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. by personal delivery on (date).

COPY

SHORT TITLE:
Riverside County Transportation Commission v. City of Moreno Valley

INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

Plaintiff Defendant Cross-Complainant Cross-Defendant

Real Parties in Interest

Highland Fairview;
Highland Fairview Operating Company, a Delaware general partnership;
HF Properties, a California general partnership;
Sunnymead Properties, a Delaware general partnership;
Theodore Properties Partners, a Delaware general partnership;
13451 Theodore, LLC, a California limited liability company;
HL Property Partners, a Delaware general partnership;
and ROES 21 - 40, inclusive

1 MICHELLE OUELLETTE, Bar No. 145191
2 CHARITY SCHILLER, Bar No. 234291
3 ANDREW M. SKANCHY, Bar No. 240461
4 BEST BEST & KRIEGER LLP
5 3390 University Avenue, 5th Floor
6 P.O. Box 1028
7 Riverside, California 92502
8 Telephone: (951) 686-1450
9 Facsimile: (951) 686-3083

6 Attorneys for Petitioner/Plaintiff
7 RIVERSIDE COUNTY TRANSPORTATION
8 COMMISSION

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 17 2015

R. Alessandrino

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF RIVERSIDE

10 RIC 1511130

11 RIVERSIDE COUNTY TRANSPORTATION
12 COMMISSION, a public agency,

12 Petitioner/Plaintiff,

13 v.

14 CITY OF MORENO VALLEY, a municipal
15 corporation;
16 MORENO VALLEY COMMUNITY
17 SERVICES DISTRICT, a dependent special
18 district of the City of Moreno Valley; and
19 DOES 1-20, inclusive,

18 Respondents/Defendants.

19 HIGHLAND FAIRVIEW;
20 HIGHLAND FAIRVIEW OPERATING
21 COMPANY, a Delaware general partnership;
22 HF PROPERTIES, a California general
23 partnership;
24 SUNNYMEAD PROPERTIES, a Delaware
25 general partnership;
26 THEODORE PROPERTIES PARTNERS, a
27 Delaware general partnership;
28 13451 THEODORE, LLC, a California limited
liability company;
HL PROPERTY PARTNERS, a Delaware
general partnership; and
ROES 21 - 40 inclusive,

Real Parties in Interest.

Case No.

(California Environmental Quality Act)

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

[Code Civ. Proc., §§ 1085, 1094.5; CEQA
(Pub. Resources Code, §§ 21000 et seq.)]

[Deemed Verified Pursuant to Code of
Civ. Proc., § 446]

17336 00031\19428930 2

PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

COPY

LAW OFFICES OF
BEST BEST & KRIEGER LLP
3390 UNIVERSITY AVENUE, 5TH FLOOR
P.O. BOX 1028
RIVERSIDE CALIFORNIA 92502

1 Petitioner RIVERSIDE COUNTY TRANSPORTATION COMMISSION (Petitioner and
2 Plaintiff or RCTC) alleges as follows:

3
4 **INTRODUCTION**

5 1. This action involves the City of Moreno Valley's (Moreno Valley, or Respondent
6 and Defendant) decision to approve the World Logistics Center project (Project) and certify the
7 accompanying Environmental Impact Report (EIR). The Project covers 3,818 acres in eastern
8 Moreno Valley in Riverside County south of SR-60, between Redlands Boulevard and Gilman
9 Springs Road, extending to the southern boundary of Moreno Valley. The Project area includes
10 open space and 2,610 acres for the development of up to 40,600,000 square feet of logistics
11 warehouses and ancillary uses. As explained in the EIR, the Project, at full build-out, will add
12 68,721 vehicles to area roadways every day (the passenger car equivalent of 89,975 surface street
13 trips and 75,724 freeway trips per day).

14 2. Moreno Valley certified the Project EIR via Moreno Valley City Council (City
15 Council or Council) Resolution No. 2015-56, and approved the Project via Council's approval of
16 Resolution No. 2015-57, which approved General Plan Amendment (PA12-0010); Resolution No.
17 2015-58, which approved Tentative Parcel Map No. 36457 (PA12-0013); Resolution 2015-59,
18 which requested that the Riverside County Local Agency Formation Commission (LAFCO)
19 initiate proceedings for the expansion of Moreno Valley boundaries; Ordinance No. 900, which
20 approved Change of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and
21 Rezoning/Annexation (PA12-0014); and Ordinance No. 901, which approved a Development
22 Agreement (PA12-0011) ; and via the Moreno Valley Community Services District's (CSD)
23 approval of Resolution CSD 2015-29, which requested that LAFCO initiate proceedings for the
24 expansion of the CSD's boundary in conjunction with the related annexation requested by the
25 City Council.

26 3. Through this lawsuit, RCTC seeks to enforce the provisions of CEQA as they
27 apply to the Project. The maintenance and prosecution of this action will confer a substantial
28 benefit on the public by ensuring full compliance with the requirements of CEQA, a public-

1 disclosure statute, and by protecting the public from the unanalyzed potential environmental
2 harms, unmitigated environmental impacts and lack of adoption of all feasible mitigation
3 measures as alleged in this Petition and Complaint.

4 **THE PARTIES**

5 4. Petitioner and Plaintiff, RCTC, is, and at all relevant times was, a county
6 transportation commission created by California Public Utilities Code section 130050, located in
7 the County of Riverside, California. RCTC is governed by a 34-member Commission that
8 includes a mayor or council member from each of Riverside County's cities, all five members of
9 the Riverside County Board of Supervisors, and a non-voting appointee of the Governor. RCTC
10 is charged with planning and implementing transportation and transit improvements in Riverside
11 County in a manner that protects the public health, safety, welfare, and environment of Riverside
12 County.

13 5. Respondent and Defendant Moreno Valley is a general law city organized and
14 existing under and by virtue of the laws of the State of California, and is situated in the County of
15 Riverside. Moreno Valley is authorized and required by law to hold public hearings, to determine
16 whether CEQA applies to development within its jurisdiction, to determine the adequacy of and
17 adopt or certify environmental documents prepared pursuant to CEQA, and to determine whether
18 a project is compatible with the objectives, policies, general land uses, and programs specified in
19 the General Plan. Moreno Valley, its staff, and contractors and consultants working under its
20 control and direction prepared the EIR for the Project, and its City Council certified the EIR and
21 issued final approvals for the Project.

22 6. Petitioner and Plaintiff is informed and believes, and on that basis alleges, that
23 Respondent CSD is a governmental body within Moreno Valley, established pursuant to the
24 Community Services District Law (Cal. Gov. Code section 61000 et seq.). CSD is a dependent
25 special district of Moreno Valley, and the Moreno Valley City Council serves as the Board of
26 Directors of the CSD. CSD has responsibility for certain funding mechanisms and services within
27 the territory of Moreno Valley. CSD, its staff, and contractors and consultants working under its
28 control and direction, approved a resolution, which was supported by the EIR's analysis,

1 furthering the Project.

2 7. Petitioner is informed and believes and on that basis alleges that Highland
3 Fairview is a Real Party in Interest insofar as the Notices of Determination that Moreno Valley
4 prepared and filed with the Riverside County Clerk on August 20, 2015, and August 26, 2015,
5 following certification of the EIR and approval of the Project, identified Highland Fairview as the
6 applicant for the Project that is the subject of this proceeding.

7 8. Petitioner is informed and believes and on that basis alleges that Highland
8 Fairview Operating Company, a Delaware general partnership, is a Real Party in Interest insofar
9 as it is listed as an owner and developer of the property and the applicant for the Project that is the
10 subject of this proceeding or has some other cognizable interest in the Project.

11 9. Petitioner is informed and believes and on that basis alleges that HF Properties, a
12 California general partnership, is a Real Party in Interest insofar as it is listed as an owner and
13 developer of the property and the applicant for the Project that is the subject of this proceeding or
14 has some other cognizable interest in the Project.

15 10. Petitioner is informed and believes and on that basis alleges that Sunnymead
16 Properties, a Delaware general partnership, is a Real Party in Interest insofar as it is listed as an
17 owner and developer of the property and the applicant for the Project that is the subject of this
18 proceeding or has some other cognizable interest in the Project.

19 11. Petitioner is informed and believes and on that basis alleges that Theodore
20 Properties Partners, a Delaware general partnership, is a Real Party in Interest insofar as it is
21 listed as the owner and developer of the property and the applicant for the Project that is the
22 subject of this proceeding or has some other cognizable interest in the Project.

23 12. Petitioner is informed and believes and on that basis alleges that 13451 Theodore,
24 LLC, a California limited liability company, is a Real Party in Interest insofar as it is listed as the
25 owner and developer of the property and the applicant for the Project that is the subject of this
26 proceeding or has some other cognizable interest in the Project.

27 13. Petitioner is informed and believes and on that basis alleges that the HL Property
28 Partners, a Delaware general partnership, is a Real Party in Interest insofar as it is listed as the

1 owner and developer of the property and the applicant for the Project that is the subject of this
2 proceeding or has some other cognizable interest in the Project.

3 14. The true names and capacities of the Respondents and Defendants identified as
4 DOES 1 through 20, and the Real Parties in Interest identified as ROES 21 through 40 are
5 unknown to RCTC, who will seek the Court's permission to amend this pleading in order to allege
6 the true name and capacities as soon as they are ascertained. RCTC is informed and believes and
7 on that basis alleges that the fictitiously named Respondents and Defendants DOES 1 through 20
8 have jurisdiction by law over one or more aspects of the Project that is the subject of this
9 proceeding; and that each of the fictitiously named Real Parties in Interest ROES 21 through 40
10 either claims an ownership interest in the Project or has some other cognizable interest in the
11 Project.

12 JURISDICTION

13 15. This Court has jurisdiction to review Moreno Valley's findings, approvals, and
14 actions and issue a writ of mandate and grant declaratory and/or injunctive relief, as well as all
15 other relief sought herein, pursuant to Code of Civil Procedure sections 1085 and 1094.5 and
16 Public Resources Code sections 21168 and 21168.5, among other provisions of law.

17 VENUE

18 16. The Superior Court of the County of Riverside is the proper venue for this action.
19 The Project at issue and the property it concerns are located within the County of Riverside.
20 RCTC's members and Moreno Valley are located wholly within the County of Riverside.

21 STANDING

22 17. RCTC and those it represents will be directly and adversely affected by Moreno
23 Valley's actions in certifying the EIR and approving the Project. RCTC has no plain, speedy, and
24 adequate remedy in the ordinary course of law in that RCTC, its members, and the public will
25 suffer irreparable harm if the Project is implemented.

26 18. As recognized in the EIR, the Project will have significant impacts on
27 transportation and traffic in Riverside County. Accordingly, any action which permits the Project
28 to go forward without disclosing, analyzing, and mitigating the Project's impacts in the EIR

1 regarding transportation and traffic, is one in which RCTC, the public agency charged with
2 planning and implementing transportation and transit improvements in Riverside County, has a
3 beneficial interest. RCTC objected to Moreno Valley's approval of the Project and requested that
4 Moreno Valley comply with CEQA. RCTC, other agencies, organizations and individuals raised
5 or affirmed each of the legal deficiencies asserted in this Petition and Complaint orally or in
6 writing prior to Moreno Valley's approval of the Project and adoption of the EIR.

7 19. RCTC seeks to promote and enforce the informational purposes of CEQA in this
8 action, which purposes are defeated by Moreno Valley's approval of the Project without
9 sufficient or accurate information, analysis or mitigation. Ascertaining the facts about the
10 environmental impacts of projects and disclosing those facts to decision-makers and the public
11 are purposes that are within the zone of interests CEQA was intended to protect.

12 20. Moreno Valley has a mandatory and public duty to comply with CEQA and all
13 other applicable laws when adopting the EIR and approving the Project. The issues in this action
14 under CEQA are issues of public right, and the object of the action is to enforce public duties in
15 the public interest. RCTC has had to employ attorneys to bring this litigation. Furthermore,
16 RCTC has incurred and will incur substantial attorneys' fees and litigation costs because of
17 Respondents' unlawful acts. This litigation, if successful, will result in enforcement of important
18 rights affecting the public interest. Such enforcement will confer a significant benefit on a large
19 class of persons. RCTC is entitled to be reimbursed for its attorneys' fees and costs because it is
20 functioning as a private attorney general pursuant to section Code of Civil Procedure section
21 1021.5.

22 21. Respondents and Real Parties in Interest are threatening to proceed with the
23 Project in the near future. Implementation of the Project will irreparably harm the environment in
24 that the Project will significantly increase traffic congestion and associated impacts on the
25 environment. RCTC has no plain, speedy, or adequate remedy at law, and, unless a stay,
26 preliminary injunction, temporary restraining order and injunction, or permanent injunction is
27 issued that restrains Respondents and Real Parties in Interest from proceeding with the Project,
28 RCTC will be unable to enforce its rights under CEQA, which prohibits Moreno Valley's

1 approval of the Project.

2 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

3 22. This action is brought consistent with the requirements of Public Resources Code
4 section 21177 and Code of Civil Procedure sections 1085 and 1094.5. RCTC has exhausted all
5 available administrative remedies by objecting to Moreno Valley's approval of the Project prior
6 to Moreno Valley's certification of the EIR and approval of the Project and requesting that
7 Moreno Valley comply with CEQA. RCTC, other agencies, organizations, or individuals raised
8 or affirmed each of the legal deficiencies asserted in this Petition and Complaint orally or in
9 writing prior to Moreno Valley's adoption of the EIR and approval of the Project.

10 23. RCTC has complied with Public Resources Code section 21167.5 by prior
11 provision of notice to Moreno Valley indicating its intent to commence this action. The notice
12 and proof of service are attached hereto as Exhibit A.

13 24. Pursuant to Public Resources Code section 21167.7, RCTC has concurrently
14 provided a copy of this Petition and Complaint to the California Attorney General.

15 25. This lawsuit has been commenced within the time limits imposed for this action
16 under the Code of Civil Procedure and the Public Resources Code.

17 **THE PROJECT**

18 26. RCTC seeks issuance of a writ of mandate ordering Moreno Valley to vacate and
19 set aside its approvals of the Project.

20 27. As stated in the EIR, on or about February 26, 2012, Moreno Valley issued a
21 Notice of Preparation (NOP) to notify state agencies and the public that an EIR was going to be
22 prepared for the Project. During the NOP review period, Moreno Valley received responses from
23 many organizations and individuals, many of which expressed concerns about the Project's
24 significant size and likely impact on transportation and traffic.

25 28. RCTC is informed and believes that the Draft EIR was circulated for public review
26 on or about February 5, 2013, until approximately April 8, 2013.

27 29. During the Draft EIR's public review period, numerous commenters, including the
28 California Department of Transportation (Caltrans) and the Riverside County Transportation and

1 Land Management Agency (TLMA), submitted comments regarding inadequacies in the Draft
2 EIR's transportation and traffic analysis, including potentially unmitigated and significant
3 transportation and traffic impacts.

4 30. The Final EIR was released to the public in or about May of 2015.

5 31. In early June of 2015, prior to the Moreno Valley Planning Commission's
6 consideration of the EIR and Project, Caltrans, TLMA, RCTC, and others submitted letters to
7 Moreno Valley identifying outstanding deficiencies in the EIR, including transportation and
8 traffic issues. RCTC submitted a comment letter dated June 9, 2015.

9 32. Moreno Valley responded to these comment letters on June 10, 2015.

10 33. After a series of meetings held on June 11, 2015, and June 25, 2015, the Moreno
11 Valley Planning Commission recommended that the City Council certify the EIR and approve the
12 Project.

13 34. In August of 2015, prior to the City Council's consideration of the EIR and
14 Project, RCTC and others submitted additional letters to Moreno Valley reiterating the EIR's
15 deficiencies and explaining how Moreno Valley's June 10, 2015 responses failed to address the
16 inadequacies in the EIR's transportation and traffic analysis, including unmitigated and
17 significant transportation and traffic impacts.

18 35. RCTC is informed and believes, and on that basis alleges, that other comment
19 letters were also received by Moreno Valley, prior to certification of the EIR and approval of the
20 Project, that identified deficiencies in the EIR.

21 36. On or about August 19, 2015, the City Council held an initial public hearing on the
22 EIR and Project. After closing the public hearing, the City Council voted to adopt Resolution No.
23 2015-56 certifying the EIR. On or around the same date, the City Council also adopted the
24 following resolutions approving the Project: Resolution No. 2015-57, which approved General
25 Plan Amendment (PA12-0010); Resolution No. 2015-58, which approved Tentative Parcel Map
26 No. 36457 (PA12-0013); and Resolution 2015-59, which requested that LAFCO initiate
27 proceedings for the expansion of Moreno Valley's boundaries. On or around the same date, the
28 City Council also introduced the following ordinances for first reading: Ordinance No. 900,

1 approving Change of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and
2 Rezoning Annexation (PA12-0014); and Ordinance No. 901, approving a Development
3 Agreement (PA12-0011).

4 37. Also on or about August 19, 2015, the CSD approved Resolution CSD 2015-29,
5 which requested that LAFCO initiate proceedings for the expansion of CSD's boundaries in
6 conjunction with the related annexation requested by the City Council.

7 38. On or about August 20, 2015, Moreno Valley filed a Notice of Determination
8 purporting to reflect its approval of a General Plan Amendment (PA12-0010), Development
9 Agreement (PA12-0011), Change of Zone (PA12-0012), Specific Plan (PA12-0013), Annexation
10 (PA12-0014), Tentative Parcel No. 36457 (PA12-0015), and an Environmental Impact Report
11 (P12-016) for the Project.

12 39. In conflict with the representations in the August 20, 2015 Notice of
13 Determination, the City Council held a meeting on August 25, 2015, whereat the City Council, on
14 second reading, adopted Ordinance No. 900, approving Change of Zone (PA12-0012), Specific
15 Plan Amendment (PA12-0013) and Rezoning/Annexation (PA12-0014); and Ordinance No. 901,
16 approving a Development Agreement (PA12-0011).

17 40. On or about August 26, 2015, Moreno Valley filed another Notice of
18 Determination, purporting to reflect its approval of Resolution No. 2015-57, which approved
19 General Plan Amendment (PA12-0010); Resolution No. 2015-58, which approved Tentative
20 Parcel Map No. 36457 (PA12-0013); Resolution 2015-59, which requested that LAFCO initiate
21 proceedings for the expansion of Moreno Valley boundaries; Resolution CSD 2015-29, which
22 requested that LAFCO initiate proceedings for the expansion of the CSD boundary in conjunction
23 with the related annexation requested by the City Council; Ordinance No. 900, approving Change
24 of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and Rezoning Annexation
25 (PA12-0014); and Ordinance No. 901, approving a Development Agreement (PA12-0011). The
26 August 26, 2015 Notice of Determination did not include reference to the City's resolution
27 certifying the EIR.

28

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FIRST CAUSE OF ACTION

(Petition for Writ of Mandate Pursuant to Code Civ. Proc., §§ 1085 and 1094.5 - Violation of CEQA)

(Against All Respondents and Real Parties in Interest)

41. RCTC incorporates herein by reference paragraphs 1 through 40, above, as though set forth in full.

42. “[T]he legislature intended [CEQA] to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*City of San Diego v. Board of Trustees of the California State University* (2015) 61 Cal.4th 945, 963 [internal punctuation and citation omitted].) When complying with CEQA, a lead agency must proceed in the manner required by law, and its determinations must be supported by substantial evidence. (Pub. Resources Code, § 21168.5.) “CEQA requires a public agency to mitigate or avoid its projects’ significant effects not just on the agency’s own property but on the environment.” (*City of San Diego, supra*, 61 Cal.4th at 957.) “CEQA defines the environment as the physical conditions which exist *within the area which will be affected by a proposed project* and mandates that each public agency shall mitigate or avoid the significant effects *on the environment* of projects that it carries out or approves whenever it is feasible to do so.” (*Id.* at 960 [italics in original, internal quotes and citations omitted].) “An EIR that incorrectly disclaims the power and duty to mitigate identified environmental effects based on erroneous legal assumptions is not sufficient as an informative document, and an agency’s use of an erroneous legal standard constitutes a failure to proceed in a manner required by law.” (*Id.* at 956 [internal citations omitted].)

43. RCTC is informed and believes, and on that basis alleges, that Moreno Valley violated CEQA in numerous ways.

44. Moreno Valley’s failure to comply with CEQA includes, but is not limited to, the following.

a. **Failure to Identify and Adequately Analyze Project Impacts:** An EIR’s conclusions must be supported by substantial evidence in the administrative record. Here, despite

1 Moreno Valley's own statements to the contrary, the EIR failed to fully and properly analyze the
2 potential for the Project to impact the environment. For example, although Section 4.15 of the
3 EIR discusses a traffic study, and admits that the Project will have significant impacts on area
4 roadways, segments, intersections and freeway facilities (Draft EIR, 4.15-222), the traffic study
5 and EIR failed to include discussion of the Project's full impacts on Gilman Springs Road,
6 particularly the segment from Bridge Street to Lambs Canyon/Sanderson. This and other
7 omissions render the EIR's analysis of potential Transportation/Traffic impacts of the Project
8 inadequate under CEQA.

9 b. **Failure to Adopt Adequate Mitigation Measures:** "[E]ach public agency shall
10 mitigate or avoid the significant effects on the environment of projects that it carries out or
11 approves whenever it is feasible to do so." (Pub. Resources Code, § 21002.1(b).) mitigation of a
12 project's impacts can be accomplished by (1) Avoiding the impact by not taking a certain action
13 or parts of the action, (2) Minimizing impacts by limiting an activity; Repairing, rehabilitating, or
14 restoring the affected environment, (3) Reducing or eliminating an impact over time through
15 preservation and maintenance operations, or (4) Compensating for an impact by replacing or
16 providing substitute resources or environments, including the payment of fees to provide
17 mitigation for an impact identified in an EIR. (14 Cal. Code of Regulations (CEQA Guidelines), §
18 15370.) Here, substantial evidence in the record reflects that Moreno Valley failed to adopt
19 adequate mitigation measures. For example the EIR states that the Project will have significant
20 and unavoidable impacts on "Roads Outside the Jurisdiction of the City and Not Part of the
21 TUMF [Transportation Uniform Mitigation Fees] Program" and "TUMF Facilities." (EIR at 1-
22 22.) This lengthy list of significantly-impacted roads includes "all freeway mainline, weaving,
23 and ramp facilities." (EIR at 4.15-239.) The EIR concludes that these impacts are significant and
24 unavoidable because no fair-share program currently exists for numerous roads outside the City's
25 jurisdiction, and "the City cannot guarantee that such a mechanism will be established and [the
26 City] does not have direct control over facilities outside of its jurisdiction." (EIR at 4.15-237.)
27 However, as explained in a comment letter from Caltrans on August 17, 2015:

28 "Nothing in CEQA requires Caltrans to adopt a contribution

1 program before fair share payments can be considered adequate
2 mitigation. All that is required is that mitigation be part of a
3 reasonable plan of actual mitigation that the relevant agency
4 commits itself to implementing. Here specific mitigation measures
5 were identified in consultation with Caltrans. Caltrans is willing to
6 commit to work with the City, or other local partners and other
7 developers to secure the funding for and to implement these, or
8 comparable measure's [sic] subject to future CEQA compliance
9 requirements as applicable. If the City prefers additional assurance
10 about how the fair share contributions will be used, reasonable
11 mechanisms exist to provide those assurances, such as traffic
12 mitigation agreements or cooperative agreements.

13 Unfortunately, the City has not explored those options or consulted
14 with Caltrans regarding any others. Thus the City's take it or leave
15 it condition that Caltrans adopt a contribution plan or no payment is
16 required does not comply with CEQA's mandate that the lead
17 agency include all reasonable mitigation. And the fact that the FEIR
18 did not examine these options demonstrate that the City's
19 conclusion that such mitigation would be infeasible is unsupported
20 by substantial evidence."

21 This confirms the validity of the traffic concerns expressed by many members of the public and
22 RCTC who commented on the Project, namely that, mitigation was available to reduce the
23 Project's significant impacts to area roads. Moreno Valley's failure to incorporate this mitigation
24 is an abuse of discretion. Further, Moreno Valley's improper rejection of the mitigation is not
25 supported by substantial evidence.

26 c. **Failure to Adequately Respond to Comments on the Draft EIR:** CEQA
27 requires lead agencies to evaluate comments on the draft EIR and prepare written responses for
28 inclusion in the EIR. (Pub. Resources Code, § 21091(d).) When a significant environmental issue
is raised in comments, the response must be detailed and provide a reasoned, good faith analysis.
(CEQA Guidelines, § 15088(c).) Caltrans, TLMA, and others provided Moreno Valley with
detailed comments as to how to make the Draft EIR's traffic and transportation analysis legally
adequate. But Moreno Valley did not sufficiently respond to or incorporate the feasible
suggestions proposed by commenters, including potential mitigation measures and areas of
analysis that could be improved.

d. **Failure to Adopt Legally Adequate Findings:** When an EIR identifies
significant environmental effects that may result from a project, the lead agency must make one
or more specific findings for those impacts. (Pub. Resources Code, § 21081; CEQA Guidelines, §

1 15091(a.) Findings of infeasibility must be specific and supported by substantial evidence in the
2 record. (Pub. Resources Code, § 21081.5.) “[I]t is the policy of the state that public agencies
3 should not approve projects as proposed if there are feasible alternatives or feasible mitigation
4 measures available which would substantially lessen the significant environmental effects of such
5 projects.” (Pub. Resources Code, § 21002.) Here, specific and feasible mitigation measures were
6 proposed by RCTC and others to reduce the Project’s significant impacts on transportation and
7 traffic. But Moreno Valley, without incorporating the proposed mitigation measures and without
8 substantial evidence, stated in its findings that the Project’s transportation and traffic impact is
9 “reduced to the extent feasible.” This is a violation of CEQA.

10 e. **Failure to Conduct Sufficient Environmental Review:** Moreno Valley failed to
11 conduct sufficient environmental review for the Project despite the fact that Moreno Valley’s own
12 documentation concedes that the Project has the potential to cause a number of foreseeable direct
13 and indirect potentially significant impacts. The EIR and its process also violate CEQA in
14 numerous other ways due to deficiencies in the EIR’s environmental setting, inadequate
15 disclosure and analysis, inadequate mitigation and failure to address potentially significant
16 impacts. The inadequacies described above and in this paragraph are prejudicial and require
17 Project approvals to be revoked and full environmental review in compliance with CEQA
18 conducted before the Project can proceed.

19 f. **Failure to Adopt an Adequate Statement of Overriding Considerations:**
20 When an agency approves a project with significant environmental effects that will not be
21 avoided or substantially lessened, it must adopt a statement of overriding considerations. (CEQA
22 Guidelines, § 15043.) Moreno Valley failed to adopt a legally adequate Statement of Overriding
23 Considerations in that the overriding considerations are not supported by substantial evidence in
24 the record.

25 45. Moreno Valley thereby violated its duties to comply with CEQA and the CEQA
26 Guidelines. Accordingly, the EIR and Project approvals must be set aside. And RCTC asks this
27 Court for an award of attorney’s fees and costs against Respondents and Real Parties in Interest as
28 permitted or required by law.

- 1 b. To rescind approval of the Project;
- 2 c. To cease, vacate, and set aside all actions related to the authorization, approval,
- 3 and execution of the Project;
- 4 d. To prepare and circulate, in compliance with CEQA and the CEQA Guidelines
- 5 adequate environmental review, prior to any re-approval; and
- 6 e. To prohibit any action by Moreno Valley in furtherance of the Project until
- 7 Respondents comply with the mandates of CEQA.
- 8 2. For a stay, temporary restraining order, preliminary injunction, and permanent injunction
- 9 prohibiting any actions by Moreno Valley or the Real Parties In Interest pursuant to
- 10 Moreno Valley's approval of the Project until Moreno Valley fully complies with all
- 11 requirements of CEQA and all other applicable state and local laws, policies, ordinances,
- 12 and regulations;

ON THE SECOND CAUSE OF ACTION

(Against All Respondents and Real Parties in Interest)

- 15 1. That this Court declare Moreno Valley's discretionary approval of the Project in violation
- 16 of CEQA as set forth above.
- 17 2. That this Court declare that Moreno Valley must properly prepare, circulate, and consider
- 18 adequate environmental documentation for the Project in order to meet the requirements
- 19 of CEQA.

ON ALL CAUSES OF ACTION

(Against All Respondents and Real Parties in Interest)

- 22 1. For an award of attorneys' fees incurred in this matter as permitted or required by law.
- 23 (Code Civ. Proc., § 1021.5.);
- 24 2. For RCTC's costs of suit incurred herein; and
- 25 3. For such other and further relief as the Court deems just and proper.
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Dated: September 17, 2015

BEST BEST & KRIEGER LLP

By: 

MICHELLE OUELLETTE
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Attorneys for Petitioner Plaintiff
Riverside County Transportation
Commission

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EXHIBIT A



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September 17, 2015

VIA FIRST CLASS MAIL

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

Re: Notice of Commencement of Action

Dear Ms. Halstead:

On behalf of our client, the Riverside County Transportation Commission (the "RCTC"), please take notice, pursuant to Public Resources Code section 21167.5, that the RCTC is commencing an action against the City of Moreno Valley (the "City") by filing a Petition for Writ of Mandate in the Superior Court of California, County of Riverside.

The Petition challenges the following approvals of the World Logistics Center Project by the City and the Moreno Valley Community Services District:

1. Resolution No. 2015-56 certifying the Final Environmental Impact Report (P12-016), adopting Findings and Statement of Overriding Considerations and approving the Mitigation Monitoring Program for the World Logistics Center Project;
2. Resolution No. 2015-57 approving General Plan Amendments (PA12-0010), including land use changes for property within the World Logistics Center Specific Plan Area to business park/light industrial (BP) and open space (OS), properties outside of the World Logistics Center Specific Plan to open space (OS) and corresponding General Plan element goals and objectives text and map amendments to the community development, circulation, parks, recreation and open space, safety and conservation elements;
3. Resolution No. 2015-58 approving PA12-0015 (Tentative Parcel Map No. 36457) for the purposes of establishing 26 parcels for financing and conveyance purposes, including an 85 acre parcel of land currently located in the County of Riverside adjacent to Gilman Springs Road and Alessandro Boulevard and which is included in the World Logistics Center Specific Plan;



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ATTORNEYS AT LAW

Jane Halstead, City Clerk
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4. Resolution No. 2015-59 requesting the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the City boundary for approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard (APN Nos. 422-130-002 and 422-130-003);

5. Resolution No. 2015-29 to request the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the Community Services District boundary to include approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard in conjunction with a related annexation (APN Nos. 422-130-002 and 422-130-003);

6. Ordinance No. 900 approving PA12-0012 (change of zone), PA12-0013 (Specific Plan) and PA12-0014 (pre-zoning/annexation), which include the proposed World Logistics Center Specific Plan, a full repeal of the Moreno Highlands Specific Plan No. 212-1, pre-zoning/annexation for 85 acres at northwest corner of Gilman Springs Road and Alessandro Boulevard, change of zone to logistics development (LD), light logistics (LL) and open space (OS) for areas within the proposed World Logistics Center Specific Plan boundary, and a change of zone to open space (OS) for those project areas outside and southerly of the proposed World Logistics Center Specific Plan boundary; and

7. Ordinance No. 901 approving PA12-0011 (Development Agreement) for the World Logistics Center Project which real estate Highland Fairview has legal or equitable interest in, on approximately 2,263 acres, within the World Logistics Specific Plan area (2,610 acres), intended to be developed as high cube logistics warehouse and related ancillary uses generally east of Redlands Boulevard, South of State Route 60, West of Gilman Springs Road and North of the San Jacinto Wildlife area.

The grounds for RCTC's Petition is that the City failed to comply with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

Sincerely,

Michelle Ouellette
of BEST BEST & KRIEGER LLP

MO:tl

cc: Anne Mayer, Executive Director,
Riverside County Transportation Commission



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PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is 3390 University Avenue, 5th Floor, P.O. Box 1028, Riverside, California 92502. On September 17, 2015, I served the following document(s):

NOTICE OF COMMENCEMENT OF ACTION

- By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
- By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):
- Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - Placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Riverside, California.

- By personal service.** At ____ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.

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10 Attorneys for Petitioner/Plaintiff
11 RIVERSIDE COUNTY TRANSPORTATION
12 COMMISSION

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF RIVERSIDE

15 RIVERSIDE COUNTY TRANSPORTATION
16 COMMISSION, a public agency,

17 Petitioner/Plaintiff,

18 v.

19 CITY OF MORENO VALLEY, a municipal
20 corporation;
21 MORENO VALLEY COMMUNITY
22 SERVICES DISTRICT, a dependent special
23 district of the City of Moreno Valley; and
24 DOES 1-20, inclusive,

25 Respondents/Defendants.

26 HIGHLAND FAIRVIEW;
27 HIGHLAND FAIRVIEW OPERATING
28 COMPANY, a Delaware general partnership;
HF PROPERTIES, a California general
partnership;
SUNNYMEAD PROPERTIES, a Delaware
general partnership;
THEODORE PROPERTIES PARTNERS, a
Delaware general partnership;
13451 THEODORE, LLC, a California limited
liability company;
HL PROPERTY PARTNERS, a Delaware
general partnership; and
ROES 21 - 40 inclusive,

Real Parties in Interest.

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 17 2015

R. Alessandro

RIC 1511130

Case No.

(California Environmental Quality Act)

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

[Code Civ. Proc., §§ 1085, 1094.5; CEQA
(Pub. Resources Code, §§ 21000 et seq.)]

[Deemed Verified Pursuant to Code of
Civ. Proc., § 446]

1 disclosure statute, and by protecting the public from the unanalyzed potential environmental
2 harms, unmitigated environmental impacts and lack of adoption of all feasible mitigation
3 measures as alleged in this Petition and Complaint.

4 THE PARTIES

5 4. Petitioner and Plaintiff, RCTC, is, and at all relevant times was, a county
6 transportation commission created by California Public Utilities Code section 130050, located in
7 the County of Riverside, California. RCTC is governed by a 34-member Commission that
8 includes a mayor or council member from each of Riverside County's cities, all five members of
9 the Riverside County Board of Supervisors, and a non-voting appointee of the Governor. RCTC
10 is charged with planning and implementing transportation and transit improvements in Riverside
11 County in a manner that protects the public health, safety, welfare, and environment of Riverside
12 County.

13 5. Respondent and Defendant Moreno Valley is a general law city organized and
14 existing under and by virtue of the laws of the State of California, and is situated in the County of
15 Riverside. Moreno Valley is authorized and required by law to hold public hearings, to determine
16 whether CEQA applies to development within its jurisdiction, to determine the adequacy of and
17 adopt or certify environmental documents prepared pursuant to CEQA, and to determine whether
18 a project is compatible with the objectives, policies, general land uses, and programs specified in
19 the General Plan. Moreno Valley, its staff, and contractors and consultants working under its
20 control and direction prepared the EIR for the Project, and its City Council certified the EIR and
21 issued final approvals for the Project.

22 6. Petitioner and Plaintiff is informed and believes, and on that basis alleges, that
23 Respondent CSD is a governmental body within Moreno Valley, established pursuant to the
24 Community Services District Law (Cal. Gov. Code section 61000 et seq.). CSD is a dependent
25 special district of Moreno Valley, and the Moreno Valley City Council serves as the Board of
26 Directors of the CSD. CSD has responsibility for certain funding mechanisms and services within
27 the territory of Moreno Valley. CSD, its staff, and contractors and consultants working under its
28 control and direction, approved a resolution, which was supported by the EIR's analysis,

1 furthering the Project.

2 7. Petitioner is informed and believes and on that basis alleges that Highland
3 Fairview is a Real Party in Interest insofar as the Notices of Determination that Moreno Valley
4 prepared and filed with the Riverside County Clerk on August 20, 2015, and August 26, 2015,
5 following certification of the EIR and approval of the Project, identified Highland Fairview as the
6 applicant for the Project that is the subject of this proceeding.

7 8. Petitioner is informed and believes and on that basis alleges that Highland
8 Fairview Operating Company, a Delaware general partnership, is a Real Party in Interest insofar
9 as it is listed as an owner and developer of the property and the applicant for the Project that is the
10 subject of this proceeding or has some other cognizable interest in the Project.

11 9. Petitioner is informed and believes and on that basis alleges that HF Properties, a
12 California general partnership, is a Real Party in Interest insofar as it is listed as an owner and
13 developer of the property and the applicant for the Project that is the subject of this proceeding or
14 has some other cognizable interest in the Project.

15 10. Petitioner is informed and believes and on that basis alleges that Sunnymead
16 Properties, a Delaware general partnership, is a Real Party in Interest insofar as it is listed as an
17 owner and developer of the property and the applicant for the Project that is the subject of this
18 proceeding or has some other cognizable interest in the Project.

19 11. Petitioner is informed and believes and on that basis alleges that Theodore
20 Properties Partners, a Delaware general partnership, is a Real Party in Interest insofar as it is
21 listed as the owner and developer of the property and the applicant for the Project that is the
22 subject of this proceeding or has some other cognizable interest in the Project.

23 12. Petitioner is informed and believes and on that basis alleges that 13451 Theodore,
24 LLC, a California limited liability company, is a Real Party in Interest insofar as it is listed as the
25 owner and developer of the property and the applicant for the Project that is the subject of this
26 proceeding or has some other cognizable interest in the Project.

27 13. Petitioner is informed and believes and on that basis alleges that the HL Property
28 Partners, a Delaware general partnership, is a Real Party in Interest insofar as it is listed as the

1 owner and developer of the property and the applicant for the Project that is the subject of this
2 proceeding or has some other cognizable interest in the Project.

3 14. The true names and capacities of the Respondents and Defendants identified as
4 DOES 1 through 20, and the Real Parties in Interest identified as ROES 21 through 40 are
5 unknown to RCTC, who will seek the Court's permission to amend this pleading in order to allege
6 the true name and capacities as soon as they are ascertained. RCTC is informed and believes and
7 on that basis alleges that the fictitiously named Respondents and Defendants DOES 1 through 20
8 have jurisdiction by law over one or more aspects of the Project that is the subject of this
9 proceeding; and that each of the fictitiously named Real Parties in Interest ROES 21 through 40
10 either claims an ownership interest in the Project or has some other cognizable interest in the
11 Project.

12 JURISDICTION

13 15. This Court has jurisdiction to review Moreno Valley's findings, approvals, and
14 actions and issue a writ of mandate and grant declaratory and/or injunctive relief, as well as all
15 other relief sought herein, pursuant to Code of Civil Procedure sections 1085 and 1094.5 and
16 Public Resources Code sections 21168 and 21168.5, among other provisions of law.

17 VENUE

18 16. The Superior Court of the County of Riverside is the proper venue for this action.
19 The Project at issue and the property it concerns are located within the County of Riverside.
20 RCTC's members and Moreno Valley are located wholly within the County of Riverside.

21 STANDING

22 17. RCTC and those it represents will be directly and adversely affected by Moreno
23 Valley's actions in certifying the EIR and approving the Project. RCTC has no plain, speedy, and
24 adequate remedy in the ordinary course of law in that RCTC, its members, and the public will
25 suffer irreparable harm if the Project is implemented.

26 18. As recognized in the EIR, the Project will have significant impacts on
27 transportation and traffic in Riverside County. Accordingly, any action which permits the Project
28 to go forward without disclosing, analyzing, and mitigating the Project's impacts in the EIR

1 regarding transportation and traffic, is one in which RCTC, the public agency charged with
2 planning and implementing transportation and transit improvements in Riverside County, has a
3 beneficial interest. RCTC objected to Moreno Valley's approval of the Project and requested that
4 Moreno Valley comply with CEQA. RCTC, other agencies, organizations and individuals raised
5 or affirmed each of the legal deficiencies asserted in this Petition and Complaint orally or in
6 writing prior to Moreno Valley's approval of the Project and adoption of the EIR.

7 19. RCTC seeks to promote and enforce the informational purposes of CEQA in this
8 action, which purposes are defeated by Moreno Valley's approval of the Project without
9 sufficient or accurate information, analysis or mitigation. Ascertaining the facts about the
10 environmental impacts of projects and disclosing those facts to decision-makers and the public
11 are purposes that are within the zone of interests CEQA was intended to protect.

12 20. Moreno Valley has a mandatory and public duty to comply with CEQA and all
13 other applicable laws when adopting the EIR and approving the Project. The issues in this action
14 under CEQA are issues of public right, and the object of the action is to enforce public duties in
15 the public interest. RCTC has had to employ attorneys to bring this litigation. Furthermore,
16 RCTC has incurred and will incur substantial attorneys' fees and litigation costs because of
17 Respondents' unlawful acts. This litigation, if successful, will result in enforcement of important
18 rights affecting the public interest. Such enforcement will confer a significant benefit on a large
19 class of persons. RCTC is entitled to be reimbursed for its attorneys' fees and costs because it is
20 functioning as a private attorney general pursuant to section Code of Civil Procedure section
21 1021.5.

22 21. Respondents and Real Parties in Interest are threatening to proceed with the
23 Project in the near future. Implementation of the Project will irreparably harm the environment in
24 that the Project will significantly increase traffic congestion and associated impacts on the
25 environment. RCTC has no plain, speedy, or adequate remedy at law, and, unless a stay,
26 preliminary injunction, temporary restraining order and injunction, or permanent injunction is
27 issued that restrains Respondents and Real Parties in Interest from proceeding with the Project,
28 RCTC will be unable to enforce its rights under CEQA, which prohibits Moreno Valley's

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1 approval of the Project.

2 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

3 22. This action is brought consistent with the requirements of Public Resources Code
4 section 21177 and Code of Civil Procedure sections 1085 and 1094.5. RCTC has exhausted all
5 available administrative remedies by objecting to Moreno Valley's approval of the Project prior
6 to Moreno Valley's certification of the EIR and approval of the Project and requesting that
7 Moreno Valley comply with CEQA. RCTC, other agencies, organizations, or individuals raised
8 or affirmed each of the legal deficiencies asserted in this Petition and Complaint orally or in
9 writing prior to Moreno Valley's adoption of the EIR and approval of the Project.

10 23. RCTC has complied with Public Resources Code section 21167.5 by prior
11 provision of notice to Moreno Valley indicating its intent to commence this action. The notice
12 and proof of service are attached hereto as Exhibit A.

13 24. Pursuant to Public Resources Code section 21167.7, RCTC has concurrently
14 provided a copy of this Petition and Complaint to the California Attorney General.

15 25. This lawsuit has been commenced within the time limits imposed for this action
16 under the Code of Civil Procedure and the Public Resources Code.

17 **THE PROJECT**

18 26. RCTC seeks issuance of a writ of mandate ordering Moreno Valley to vacate and
19 set aside its approvals of the Project.

20 27. As stated in the EIR, on or about February 26, 2012, Moreno Valley issued a
21 Notice of Preparation (NOP) to notify state agencies and the public that an EIR was going to be
22 prepared for the Project. During the NOP review period, Moreno Valley received responses from
23 many organizations and individuals, many of which expressed concerns about the Project's
24 significant size and likely impact on transportation and traffic.

25 28. RCTC is informed and believes that the Draft EIR was circulated for public review
26 on or about February 5, 2013, until approximately April 8, 2013.

27 29. During the Draft EIR's public review period, numerous commenters, including the
28 California Department of Transportation (Caltrans) and the Riverside County Transportation and

1 Land Management Agency (TLMA), submitted comments regarding inadequacies in the Draft
2 EIR's transportation and traffic analysis, including potentially unmitigated and significant
3 transportation and traffic impacts.

4 30. The Final EIR was released to the public in or about May of 2015.

5 31. In early June of 2015, prior to the Moreno Valley Planning Commission's
6 consideration of the EIR and Project, Caltrans, TLMA, RCTC, and others submitted letters to
7 Moreno Valley identifying outstanding deficiencies in the EIR, including transportation and
8 traffic issues. RCTC submitted a comment letter dated June 9, 2015.

9 32. Moreno Valley responded to these comment letters on June 10, 2015.

10 33. After a series of meetings held on June 11, 2015, and June 25, 2015, the Moreno
11 Valley Planning Commission recommended that the City Council certify the EIR and approve the
12 Project.

13 34. In August of 2015, prior to the City Council's consideration of the EIR and
14 Project, RCTC and others submitted additional letters to Moreno Valley reiterating the EIR's
15 deficiencies and explaining how Moreno Valley's June 10, 2015 responses failed to address the
16 inadequacies in the EIR's transportation and traffic analysis, including unmitigated and
17 significant transportation and traffic impacts.

18 35. RCTC is informed and believes, and on that basis alleges, that other comment
19 letters were also received by Moreno Valley, prior to certification of the EIR and approval of the
20 Project, that identified deficiencies in the EIR.

21 36. On or about August 19, 2015, the City Council held an initial public hearing on the
22 EIR and Project. After closing the public hearing, the City Council voted to adopt Resolution No.
23 2015-56 certifying the EIR. On or around the same date, the City Council also adopted the
24 following resolutions approving the Project: Resolution No. 2015-57, which approved General
25 Plan Amendment (PA12-0010); Resolution No. 2015-58, which approved Tentative Parcel Map
26 No. 36457 (PA12-0013); and Resolution 2015-59, which requested that I.AFCO initiate
27 proceedings for the expansion of Moreno Valley's boundaries. On or around the same date, the
28 City Council also introduced the following ordinances for first reading: Ordinance No. 900,

1 approving Change of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and
2 Rezoning Annexation (PA12-0014); and Ordinance No. 901, approving a Development
3 Agreement (PA12-0011).

4 37. Also on or about August 19, 2015, the CSD approved Resolution CSD 2015-29,
5 which requested that LAFCO initiate proceedings for the expansion of CSD's boundaries in
6 conjunction with the related annexation requested by the City Council.

7 38. On or about August 20, 2015, Moreno Valley filed a Notice of Determination
8 purporting to reflect its approval of a General Plan Amendment (PA12-0010), Development
9 Agreement (PA12-0011), Change of Zone (PA12-0012), Specific Plan (PA12-0013), Annexation
10 (PA12-0014), Tentative Parcel No. 36457 (PA12-0015), and an Environmental Impact Report
11 (P12-016) for the Project.

12 39. In conflict with the representations in the August 20, 2015 Notice of
13 Determination, the City Council held a meeting on August 25, 2015, whereat the City Council, on
14 second reading, adopted Ordinance No. 900, approving Change of Zone (PA12-0012), Specific
15 Plan Amendment (PA12-0013) and Rezoning/Annexation (PA12-0014); and Ordinance No. 901,
16 approving a Development Agreement (PA12-0011).

17 40. On or about August 26, 2015, Moreno Valley filed another Notice of
18 Determination, purporting to reflect its approval of Resolution No. 2015-57, which approved
19 General Plan Amendment (PA12-0010); Resolution No. 2015-58, which approved Tentative
20 Parcel Map No. 36457 (PA12-0013); Resolution 2015-59, which requested that LAFCO initiate
21 proceedings for the expansion of Moreno Valley boundaries; Resolution CSD 2015-29, which
22 requested that LAFCO initiate proceedings for the expansion of the CSD boundary in conjunction
23 with the related annexation requested by the City Council; Ordinance No. 900, approving Change
24 of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and Rezoning Annexation
25 (PA12-0014); and Ordinance No. 901, approving a Development Agreement (PA12-0011). The
26 August 26, 2015 Notice of Determination did not include reference to the City's resolution
27 certifying the EIR.
28

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FIRST CAUSE OF ACTION

(Petition for Writ of Mandate Pursuant to Code Civ. Proc., §§ 1085 and 1094.5 - Violation
of CEQA)

(Against All Respondents and Real Parties in Interest)

41. RCTC incorporates herein by reference paragraphs 1 through 40, above, as though set forth in full.

42. “[T]he legislature intended [CEQA] to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*City of San Diego v. Board of Trustees of the California State University* (2015) 61 Cal.4th 945, 963 [internal punctuation and citation omitted].) When complying with CEQA, a lead agency must proceed in the manner required by law, and its determinations must be supported by substantial evidence. (Pub. Resources Code, § 21168.5.) “CEQA requires a public agency to mitigate or avoid its projects’ significant effects not just on the agency’s own property but on the environment.” (*City of San Diego, supra*, 61 Cal.4th at 957.) “CEQA defines the environment as the physical conditions which exist *within the area which will be affected by a proposed project* and mandates that each public agency shall mitigate or avoid the significant effects *on the environment* of projects that it carries out or approves whenever it is feasible to do so.” (*Id.* at 960 [italics in original, internal quotes and citations omitted].) “An EIR that incorrectly disclaims the power and duty to mitigate identified environmental effects based on erroneous legal assumptions is not sufficient as an informative document, and an agency’s use of an erroneous legal standard constitutes a failure to proceed in a manner required by law.” (*Id.* at 956 [internal citations omitted].)

43. RCTC is informed and believes, and on that basis alleges, that Moreno Valley violated CEQA in numerous ways.

44. Moreno Valley’s failure to comply with CEQA includes, but is not limited to, the following.

a. **Failure to Identify and Adequately Analyze Project Impacts:** An EIR’s conclusions must be supported by substantial evidence in the administrative record. Here, despite

1 Moreno Valley's own statements to the contrary, the EIR failed to fully and properly analyze the
2 potential for the Project to impact the environment. For example, although Section 4.15 of the
3 EIR discusses a traffic study, and admits that the Project will have significant impacts on area
4 roadways, segments, intersections and freeway facilities (Draft EIR, 4.15-222), the traffic study
5 and EIR failed to include discussion of the Project's full impacts on Gilman Springs Road,
6 particularly the segment from Bridge Street to Lambs Canyon/Sanderson. This and other
7 omissions render the EIR's analysis of potential Transportation/Traffic impacts of the Project
8 inadequate under CEQA.

9 b. **Failure to Adopt Adequate Mitigation Measures:** "[E]ach public agency shall
10 mitigate or avoid the significant effects on the environment of projects that it carries out or
11 approves whenever it is feasible to do so." (Pub. Resources Code, § 21002.1(b).) mitigation of a
12 project's impacts can be accomplished by (1) Avoiding the impact by not taking a certain action
13 or parts of the action, (2) Minimizing impacts by limiting an activity; Repairing, rehabilitating, or
14 restoring the affected environment, (3) Reducing or eliminating an impact over time through
15 preservation and maintenance operations, or (4) Compensating for an impact by replacing or
16 providing substitute resources or environments, including the payment of fees to provide
17 mitigation for an impact identified in an EIR. (14 Cal. Code of Regulations (CEQA Guidelines), §
18 15370.) Here, substantial evidence in the record reflects that Moreno Valley failed to adopt
19 adequate mitigation measures. For example the EIR states that the Project will have significant
20 and unavoidable impacts on "Roads Outside the Jurisdiction of the City and Not Part of the
21 TUMF [Transportation Uniform Mitigation Fees] Program" and "TUMF Facilities." (EIR at 1-
22 22.) This lengthy list of significantly-impacted roads includes "all freeway mainline, weaving,
23 and ramp facilities." (EIR at 4.15-239.) The EIR concludes that these impacts are significant and
24 unavoidable because no fair-share program currently exists for numerous roads outside the City's
25 jurisdiction, and "the City cannot guarantee that such a mechanism will be established and [the
26 City] does not have direct control over facilities outside of its jurisdiction." (EIR at 4.15-237.)
27 However, as explained in a comment letter from Caltrans on August 17, 2015:

28 "Nothing in CEQA requires Caltrans to adopt a contribution

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program before fair share payments can be considered adequate mitigation. All that is required is that mitigation be part of a reasonable plan of actual mitigation that the relevant agency commits itself to implementing. Here specific mitigation measures were identified in consultation with Caltrans. Caltrans is willing to commit to work with the City, or other local partners and other developers to secure the funding for and to implement these, or comparable measure's [sic] subject to future CEQA compliance requirements as applicable. If the City prefers additional assurance about how the fair share contributions will be used, reasonable mechanisms exist to provide those assurances, such as traffic mitigation agreements or cooperative agreements.

Unfortunately, the City has not explored those options or consulted with Caltrans regarding any others. Thus the City's take it or leave it condition that Caltrans adopt a contribution plan or no payment is required does not comply with CEQA's mandate that the lead agency include all reasonable mitigation. And the fact that the FEIR did not examine these options demonstrate that the City's conclusion that such mitigation would be infeasible is unsupported by substantial evidence."

This confirms the validity of the traffic concerns expressed by many members of the public and RCTC who commented on the Project, namely that, mitigation was available to reduce the Project's significant impacts to area roads. Moreno Valley's failure to incorporate this mitigation is an abuse of discretion. Further, Moreno Valley's improper rejection of the mitigation is not supported by substantial evidence.

c. **Failure to Adequately Respond to Comments on the Draft EIR:** CEQA requires lead agencies to evaluate comments on the draft EIR and prepare written responses for inclusion in the EIR. (Pub. Resources Code, § 21091(d).) When a significant environmental issue is raised in comments, the response must be detailed and provide a reasoned, good faith analysis. (CEQA Guidelines, § 15088(c).) Caltrans, TLMA, and others provided Moreno Valley with detailed comments as to how to make the Draft EIR's traffic and transportation analysis legally adequate. But Moreno Valley did not sufficiently respond to or incorporate the feasible suggestions proposed by commenters, including potential mitigation measures and areas of analysis that could be improved.

d. **Failure to Adopt Legally Adequate Findings:** When an EIR identifies significant environmental effects that may result from a project, the lead agency must make one or more specific findings for those impacts. (Pub. Resources Code, § 21081; CEQA Guidelines, §

1 15091(a.) Findings of infeasibility must be specific and supported by substantial evidence in the
2 record. (Pub. Resources Code, § 21081.5.) “[I]t is the policy of the state that public agencies
3 should not approve projects as proposed if there are feasible alternatives or feasible mitigation
4 measures available which would substantially lessen the significant environmental effects of such
5 projects.” (Pub. Resources Code, § 21002.) Here, specific and feasible mitigation measures were
6 proposed by RCTC and others to reduce the Project’s significant impacts on transportation and
7 traffic. But Moreno Valley, without incorporating the proposed mitigation measures and without
8 substantial evidence, stated in its findings that the Project’s transportation and traffic impact is
9 “reduced to the extent feasible.” This is a violation of CEQA.

10 e. **Failure to Conduct Sufficient Environmental Review:** Moreno Valley failed to
11 conduct sufficient environmental review for the Project despite the fact that Moreno Valley’s own
12 documentation concedes that the Project has the potential to cause a number of foreseeable direct
13 and indirect potentially significant impacts. The EIR and its process also violate CEQA in
14 numerous other ways due to deficiencies in the EIR’s environmental setting, inadequate
15 disclosure and analysis, inadequate mitigation and failure to address potentially significant
16 impacts. The inadequacies described above and in this paragraph are prejudicial and require
17 Project approvals to be revoked and full environmental review in compliance with CEQA
18 conducted before the Project can proceed.

19 f. **Failure to Adopt an Adequate Statement of Overriding Considerations:**
20 When an agency approves a project with significant environmental effects that will not be
21 avoided or substantially lessened, it must adopt a statement of overriding considerations. (CEQA
22 Guidelines, § 15043.) Moreno Valley failed to adopt a legally adequate Statement of Overriding
23 Considerations in that the overriding considerations are not supported by substantial evidence in
24 the record.

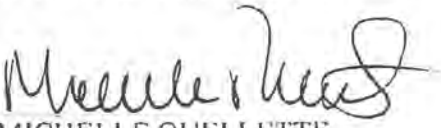
25 45. Moreno Valley thereby violated its duties to comply with CEQA and the CEQA
26 Guidelines. Accordingly, the EIR and Project approvals must be set aside. And RCTC asks this
27 Court for an award of attorney’s fees and costs against Respondents and Real Parties in Interest as
28 permitted or required by law.

LAW OFFICES OF
BEST BEST & KRIEGER LLP
3390 UNIVERSITY AVENUE 5TH FLOOR
P O BOX 1028
RIVERSIDE CALIFORNIA 92502

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Dated: September 17, 2015

BEST BEST & KRIEGER LLP

By: 
MICHELLE OUELLETTE
CHARITY SCHILLER
ANDREW M. SKANCHY
Attorneys for Petitioner Plaintiff
Riverside County Transportation
Commission

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EXHIBIT A



BEST BEST & KRIEGER
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Michelle Ouellette
(951) 826-8373
Michelle.Ouellette@bbklaw.com
File No. 26506.00036

September 17, 2015

VIA FIRST CLASS MAIL

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

Re: Notice of Commencement of Action

Dear Ms. Halstead:

On behalf of our client, the Riverside County Transportation Commission (the "RCTC"), please take notice, pursuant to Public Resources Code section 21167.5, that the RCTC is commencing an action against the City of Moreno Valley (the "City") by filing a Petition for Writ of Mandate in the Superior Court of California, County of Riverside.

The Petition challenges the following approvals of the World Logistics Center Project by the City and the Moreno Valley Community Services District:

1. Resolution No. 2015-56 certifying the Final Environmental Impact Report (P12-016), adopting Findings and Statement of Overriding Considerations and approving the Mitigation Monitoring Program for the World Logistics Center Project;
2. Resolution No. 2015-57 approving General Plan Amendments (PA12-0010), including land use changes for property within the World Logistics Center Specific Plan Area to business park/light industrial (BP) and open space (OS), properties outside of the World Logistics Center Specific Plan to open space (OS) and corresponding General Plan element goals and objectives text and map amendments to the community development, circulation, parks, recreation and open space, safety and conservation elements;
3. Resolution No. 2015-58 approving PA12-0015 (Tentative Parcel Map No. 36457) for the purposes of establishing 26 parcels for financing and conveyance purposes, including an 85 acre parcel of land currently located in the County of Riverside adjacent to Gilman Springs Road and Alessandro Boulevard and which is included in the World Logistics Center Specific Plan;



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 17, 2015
Page 2

4. Resolution No. 2015-59 requesting the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the City boundary for approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard (APN Nos. 422-130-002 and 422-130-003);

5. Resolution No. 2015-29 to request the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the Community Services District boundary to include approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard in conjunction with a related annexation (APN Nos. 422-130-002 and 422-130-003);

6. Ordinance No. 900 approving PA12-0012 (change of zone), PA12-0013 (Specific Plan) and PA12-0014 (pre-zoning/annexation), which include the proposed World Logistics Center Specific Plan, a full repeal of the Moreno Highlands Specific Plan No. 212-1, pre-zoning/annexation for 85 acres at northwest corner of Gilman Springs Road and Alessandro Boulevard, change of zone to logistics development (LD), light logistics (LL) and open space (OS) for areas within the proposed World Logistics Center Specific Plan boundary, and a change of zone to open space (OS) for those project areas outside and southerly of the proposed World Logistics Center Specific Plan boundary; and

7. Ordinance No. 901 approving PA12-0011 (Development Agreement) for the World Logistics Center Project which real estate Highland Fairview has legal or equitable interest in, on approximately 2,263 acres, within the World Logistics Specific Plan area (2,610 acres), intended to be developed as high cube logistics warehouse and related ancillary uses generally east of Redlands Boulevard, South of State Route 60, West of Gilman Springs Road and North of the San Jacinto Wildlife area.

The grounds for RCTC's Petition is that the City failed to comply with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

Sincerely,

Michelle Ouellette
of BEST BEST & KRIEGER LLP

MO:tli

cc: Anne Mayer, Executive Director,
Riverside County Transportation Commission



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 17, 2015
Page 3

PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is 3390 University Avenue, 5th Floor, P.O. Box 1028, Riverside, California 92502. On September 17, 2015, I served the following document(s):

NOTICE OF COMMENCEMENT OF ACTION

- By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
- By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):
- Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - Placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Riverside, California.

- By personal service.** At ___ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.



BEST BEST & KRIEGER

ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 17, 2015
Page 4

- By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service for service. A Declaration of Messenger is attached.

- By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

- By e-mail or electronic transmission.** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 17, 2015, at Riverside, California.

Monica Castanon

1 MICHELLE OUELLETTE, Bar No. 145191
2 CHARITY SCHILLER, Bar No. 234291
3 ANDREW M. SKANCHY, Bar No. 240461
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10 Attorneys for Petitioner/Plaintiff
11 RIVERSIDE COUNTY TRANSPORTATION
12 COMMISSION

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 17 2015

R. Alessandro

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE **RIC**

1511130

10 RIVERSIDE COUNTY TRANSPORTATION
11 COMMISSION, a public agency,

Case No.

Petitioner/Plaintiff,

**PETITIONER'S ELECTION TO
PREPARE THE ADMINISTRATIVE
RECORD**

v.

(CEQA)

13 CITY OF MORENO VALLEY, a municipal
14 corporation;
15 MORENO VALLEY COMMUNITY
16 SERVICES DISTRICT, a dependent special
17 district of the City of Moreno Valley; and
18 DOES 1-20, inclusive,

Respondents/Defendants.

19 HIGHLAND FAIRVIEW;
20 HIGHLAND FAIRVIEW OPERATING
21 COMPANY, a Delaware general partnership;
22 HF PROPERTIES, a California general
23 partnership;
24 SUNNYMEAD PROPERTIES, a Delaware
25 general partnership;
26 THEODORE PROPERTIES PARTNERS, a
27 Delaware general partnership;
28 13451 THEODORE, LLC, a California limited
liability company;
HL PROPERTY PARTNERS, a Delaware
general partnership;
and ROES 21 - 40 inclusive,

Real Parties in Interest.

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PETITIONER'S ELECTION TO PREPARE THE ADMINISTRATIVE RECORD

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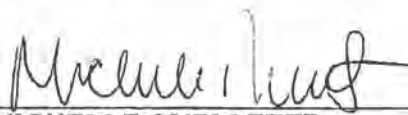
TO RESPONDENT CITY OF MORENO VALLEY:

Pursuant to Public Resources Code § 21167.6, Petitioner Riverside County Transportation Commission ("Petitioner") hereby notifies Respondent City of Moreno Valley of Petitioner's election to prepare the Administrative Record of proceedings relating to this action.

Petitioner therefore requests that Respondent notify Petitioner's attorney of record in writing when the items constituting the administrative record are available for inspection and photocopying. The documents that constitute the administrative record consist of, but are not limited to, all transcripts, minutes of meetings, notices, proofs of publications, mailing lists, correspondence, emails, reports, studies, proposed decisions, final decisions, findings, notices of determination, and any other documents or records relating to Respondent's approval of the World Logistics Center Project (SCH No. 2012021045).

Dated: September 17, 2015

BEST BEST & KRIEGER LLP

By: 

MICHELLE OUELLETTE
CHARITY SCHILLER
ANDREW M. SKANCHY
Attorneys for Petitioner and Plaintiff
Riverside County Transportation
Commission

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11 RIVERSIDE COUNTY TRANSPORTATION
12 COMMISSION

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF RIVERSIDE

15 RIVERSIDE COUNTY TRANSPORTATION
16 COMMISSION, a public agency,

17 Petitioner/Plaintiff,

18 v.

19 CITY OF MORENO VALLEY, a municipal
20 corporation;
21 MORENO VALLEY COMMUNITY
22 SERVICES DISTRICT, a dependent special
23 district of the City of Moreno Valley; and
24 DOES 1-20, inclusive,

25 Respondents/Defendants.

26 HIGHLAND FAIRVIEW;
27 HIGHLAND FAIRVIEW OPERATING
28 COMPANY, a Delaware general partnership;
HF PROPERTIES, a California general
partnership;
SUNNYMEAD PROPERTIES, a Delaware
general partnership;
THEODORE PROPERTIES PARTNERS, a
Delaware general partnership;
13451 THEODORE, LLC, a California limited
liability company;
HL PROPERTY PARTNERS, a Delaware
general partnership; and
ROES 21 - 40, inclusive,

Real Parties in Interest.

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 17 2015

R. Alessandro

RIC 1511130

Case No.

(California Environmental Quality Act)

NOTICE TO ATTORNEY GENERAL
OF CEQA ACTION

1 TO THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA:

2 PLEASE TAKE NOTICE, pursuant to Public Resources Code section 21167.7 and Code
3 of Civil Procedure section 388, that on September 18, 2015, Petitioner and Plaintiff the Riverside
4 County Transportation Commission filed a Verified Petition for Writ of Mandate and Complaint
5 for Declaratory and Injunctive Relief under the California Environmental Quality Act ("Petition")
6 against Respondents City of Moreno Valley and the Moreno Valley Community Services District
7 (collectively "Respondents"), in the Superior Court of the State of California, County of
8 Riverside.

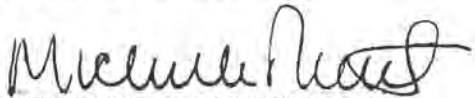
9 The Petition alleges that the Respondent City of Moreno Valley violated the California
10 Environmental Quality Act ("CEQA") (Public Resources Code section 21000 et seq.) by
11 certifying the Final Environmental Impact Report for the World Logistics Center Project (State
12 Clearinghouse No. 2012021045) (the "Project"), adopting Findings and Statement of Overriding
13 Considerations and approving the Mitigation Monitoring Program for the Project.

14 The Petition also alleges that the Respondents' adopting of Resolutions approving the
15 General Plan Amendments, including land use changes to property within the Project area, and
16 initiating proceedings with the Riverside Local Agency Formation Commission for the expansion
17 of the Respondents' boundaries to include approximately 85 acres of land located along Gilman
18 Springs Road and Alessandro Boulevard, and adopting Ordinances regarding the same were done
19 in violation of CEQA. The City of Moreno Valley is the lead agency responsible under CEQA
20 for evaluating the environmental impacts of the Project. This Project was approved without an
21 adequate or proper environmental review under CEQA.

22 A copy of the Petition is attached to this notice as Exhibit "A."

23 Dated: September 17, 2015

BEST BEST & KRIEGER LLP

24 By: 

25 MICHELLE OUELLETTE
26 CHARITY SCHILLER
27 ANDREW M. SKANCHY
28 Attorneys for Petitioner and Plaintiff
Riverside County Transportation
Commission

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EXHIBIT "A"

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10 Attorneys for Petitioner/Plaintiff
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12 COMMISSION

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF RIVERSIDE

15 RIVERSIDE COUNTY TRANSPORTATION
16 COMMISSION, a public agency,

17 Petitioner/Plaintiff,

18 v.

19 CITY OF MORENO VALLEY, a municipal
20 corporation;
21 MORENO VALLEY COMMUNITY
22 SERVICES DISTRICT, a dependent special
23 district of the City of Moreno Valley; and
24 DOES 1-20, inclusive,

25 Respondents/Defendants.

26 HIGHLAND FAIRVIEW;
27 HIGHLAND FAIRVIEW OPERATING
28 COMPANY, a Delaware general partnership;
HF PROPERTIES, a California general
partnership;
SUNNYMEAD PROPERTIES, a Delaware
general partnership;
THEODORE PROPERTIES PARTNERS, a
Delaware general partnership;
13451 THEODORE, LLC, a California limited
liability company;
HL PROPERTY PARTNERS, a Delaware
general partnership; and
ROES 21 – 40 inclusive,

Real Parties in Interest.

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

Case No.

(California Environmental Quality Act)

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

[Code Civ. Proc., §§ 1085, 1094.5; CEQA
(Pub. Resources Code, §§ 21000 et seq.)]

[Deemed Verified Pursuant to Code of
Civ. Proc., § 446]

1 Petitioner RIVERSIDE COUNTY TRANSPORTATION COMMISSION (Petitioner and
2 Plaintiff or RCTC) alleges as follows:

3
4 **INTRODUCTION**

5 1. This action involves the City of Moreno Valley's (Moreno Valley, or Respondent
6 and Defendant) decision to approve the World Logistics Center project (Project) and certify the
7 accompanying Environmental Impact Report (EIR). The Project covers 3,818 acres in eastern
8 Moreno Valley in Riverside County south of SR-60, between Redlands Boulevard and Gilman
9 Springs Road, extending to the southern boundary of Moreno Valley. The Project area includes
10 open space and 2,610 acres for the development of up to 40,600,000 square feet of logistics
11 warehouses and ancillary uses. As explained in the EIR, the Project, at full build-out, will add
12 68,721 vehicles to area roadways every day (the passenger car equivalent of 89,975 surface street
13 trips and 75,724 freeway trips per day).

14 2. Moreno Valley certified the Project EIR via Moreno Valley City Council (City
15 Council or Council) Resolution No. 2015-56, and approved the Project via Council's approval of
16 Resolution No. 2015-57, which approved General Plan Amendment (PA12-0010); Resolution No.
17 2015-58, which approved Tentative Parcel Map No. 36457 (PA12-0013); Resolution 2015-59,
18 which requested that the Riverside County Local Agency Formation Commission (LAFCO)
19 initiate proceedings for the expansion of Moreno Valley boundaries; Ordinance No. 900, which
20 approved Change of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and
21 Rezoning/Annexation (PA12-0014); and Ordinance No. 901, which approved a Development
22 Agreement (PA12-0011); and via the Moreno Valley Community Services District's (CSD)
23 approval of Resolution CSD 2015-29, which requested that LAFCO initiate proceedings for the
24 expansion of the CSD's boundary in conjunction with the related annexation requested by the
25 City Council.

26 3. Through this lawsuit, RCTC seeks to enforce the provisions of CEQA as they
27 apply to the Project. The maintenance and prosecution of this action will confer a substantial
28 benefit on the public by ensuring full compliance with the requirements of CEQA, a public-

1 disclosure statute, and by protecting the public from the unanalyzed potential environmental
2 harms, unmitigated environmental impacts and lack of adoption of all feasible mitigation
3 measures as alleged in this Petition and Complaint.

4 **THE PARTIES**

5 4. Petitioner and Plaintiff, RCTC, is, and at all relevant times was, a county
6 transportation commission created by California Public Utilities Code section 130050, located in
7 the County of Riverside, California. RCTC is governed by a 34-member Commission that
8 includes a mayor or council member from each of Riverside County's cities, all five members of
9 the Riverside County Board of Supervisors, and a non-voting appointee of the Governor. RCTC
10 is charged with planning and implementing transportation and transit improvements in Riverside
11 County in a manner that protects the public health, safety, welfare, and environment of Riverside
12 County.

13 5. Respondent and Defendant Moreno Valley is a general law city organized and
14 existing under and by virtue of the laws of the State of California, and is situated in the County of
15 Riverside. Moreno Valley is authorized and required by law to hold public hearings, to determine
16 whether CEQA applies to development within its jurisdiction, to determine the adequacy of and
17 adopt or certify environmental documents prepared pursuant to CEQA, and to determine whether
18 a project is compatible with the objectives, policies, general land uses, and programs specified in
19 the General Plan. Moreno Valley, its staff, and contractors and consultants working under its
20 control and direction prepared the EIR for the Project, and its City Council certified the EIR and
21 issued final approvals for the Project.

22 6. Petitioner and Plaintiff is informed and believes, and on that basis alleges, that
23 Respondent CSD is a governmental body within Moreno Valley, established pursuant to the
24 Community Services District Law (Cal. Gov. Code section 61000 et seq.). CSD is a dependent
25 special district of Moreno Valley, and the Moreno Valley City Council serves as the Board of
26 Directors of the CSD. CSD has responsibility for certain funding mechanisms and services within
27 the territory of Moreno Valley. CSD, its staff, and contractors and consultants working under its
28 control and direction, approved a resolution, which was supported by the EIR's analysis,

1 furthering the Project.

2 7. Petitioner is informed and believes and on that basis alleges that Highland
3 Fairview is a Real Party in Interest insofar as the Notices of Determination that Moreno Valley
4 prepared and filed with the Riverside County Clerk on August 20, 2015, and August 26, 2015,
5 following certification of the EIR and approval of the Project, identified Highland Fairview as the
6 applicant for the Project that is the subject of this proceeding.

7 8. Petitioner is informed and believes and on that basis alleges that Highland
8 Fairview Operating Company, a Delaware general partnership, is a Real Party in Interest insofar
9 as it is listed as an owner and developer of the property and the applicant for the Project that is the
10 subject of this proceeding or has some other cognizable interest in the Project.

11 9. Petitioner is informed and believes and on that basis alleges that HF Properties, a
12 California general partnership, is a Real Party in Interest insofar as it is listed as an owner and
13 developer of the property and the applicant for the Project that is the subject of this proceeding or
14 has some other cognizable interest in the Project.

15 10. Petitioner is informed and believes and on that basis alleges that Sunnymead
16 Properties, a Delaware general partnership, is a Real Party in Interest insofar as it is listed as an
17 owner and developer of the property and the applicant for the Project that is the subject of this
18 proceeding or has some other cognizable interest in the Project.

19 11. Petitioner is informed and believes and on that basis alleges that Theodore
20 Properties Partners, a Delaware general partnership, is a Real Party in Interest insofar as it is
21 listed as the owner and developer of the property and the applicant for the Project that is the
22 subject of this proceeding or has some other cognizable interest in the Project.

23 12. Petitioner is informed and believes and on that basis alleges that 13451 Theodore,
24 LLC, a California limited liability company, is a Real Party in Interest insofar as it is listed as the
25 owner and developer of the property and the applicant for the Project that is the subject of this
26 proceeding or has some other cognizable interest in the Project.

27 13. Petitioner is informed and believes and on that basis alleges that the HL Property
28 Partners, a Delaware general partnership, is a Real Party in Interest insofar as it is listed as the

1 owner and developer of the property and the applicant for the Project that is the subject of this
2 proceeding or has some other cognizable interest in the Project.

3 14. The true names and capacities of the Respondents and Defendants identified as
4 DOES 1 through 20, and the Real Parties in Interest identified as ROES 21 through 40 are
5 unknown to RCTC, who will seek the Court's permission to amend this pleading in order to allege
6 the true name and capacities as soon as they are ascertained. RCTC is informed and believes and
7 on that basis alleges that the fictitiously named Respondents and Defendants DOES 1 through 20
8 have jurisdiction by law over one or more aspects of the Project that is the subject of this
9 proceeding; and that each of the fictitiously named Real Parties in Interest ROES 21 through 40
10 either claims an ownership interest in the Project or has some other cognizable interest in the
11 Project.

12 JURISDICTION

13 15. This Court has jurisdiction to review Moreno Valley's findings, approvals, and
14 actions and issue a writ of mandate and grant declaratory and/or injunctive relief, as well as all
15 other relief sought herein, pursuant to Code of Civil Procedure sections 1085 and 1094.5 and
16 Public Resources Code sections 21168 and 21168.5, among other provisions of law.

17 VENUE

18 16. The Superior Court of the County of Riverside is the proper venue for this action.
19 The Project at issue and the property it concerns are located within the County of Riverside.
20 RCTC's members and Moreno Valley are located wholly within the County of Riverside.

21 STANDING

22 17. RCTC and those it represents will be directly and adversely affected by Moreno
23 Valley's actions in certifying the EIR and approving the Project. RCTC has no plain, speedy, and
24 adequate remedy in the ordinary course of law in that RCTC, its members, and the public will
25 suffer irreparable harm if the Project is implemented.

26 18. As recognized in the EIR, the Project will have significant impacts on
27 transportation and traffic in Riverside County. Accordingly, any action which permits the Project
28 to go forward without disclosing, analyzing, and mitigating the Project's impacts in the EIR

1 regarding transportation and traffic, is one in which RCTC, the public agency charged with
2 planning and implementing transportation and transit improvements in Riverside County, has a
3 beneficial interest. RCTC objected to Moreno Valley's approval of the Project and requested that
4 Moreno Valley comply with CEQA. RCTC, other agencies, organizations and individuals raised
5 or affirmed each of the legal deficiencies asserted in this Petition and Complaint orally or in
6 writing prior to Moreno Valley's approval of the Project and adoption of the EIR.

7 19. RCTC seeks to promote and enforce the informational purposes of CEQA in this
8 action, which purposes are defeated by Moreno Valley's approval of the Project without
9 sufficient or accurate information, analysis or mitigation. Ascertaining the facts about the
10 environmental impacts of projects and disclosing those facts to decision-makers and the public
11 are purposes that are within the zone of interests CEQA was intended to protect.

12 20. Moreno Valley has a mandatory and public duty to comply with CEQA and all
13 other applicable laws when adopting the EIR and approving the Project. The issues in this action
14 under CEQA are issues of public right, and the object of the action is to enforce public duties in
15 the public interest. RCTC has had to employ attorneys to bring this litigation. Furthermore,
16 RCTC has incurred and will incur substantial attorneys' fees and litigation costs because of
17 Respondents' unlawful acts. This litigation, if successful, will result in enforcement of important
18 rights affecting the public interest. Such enforcement will confer a significant benefit on a large
19 class of persons. RCTC is entitled to be reimbursed for its attorneys' fees and costs because it is
20 functioning as a private attorney general pursuant to section Code of Civil Procedure section
21 1021.5.

22 21. Respondents and Real Parties in Interest are threatening to proceed with the
23 Project in the near future. Implementation of the Project will irreparably harm the environment in
24 that the Project will significantly increase traffic congestion and associated impacts on the
25 environment. RCTC has no plain, speedy, or adequate remedy at law, and, unless a stay,
26 preliminary injunction, temporary restraining order and injunction, or permanent injunction is
27 issued that restrains Respondents and Real Parties in Interest from proceeding with the Project,
28 RCTC will be unable to enforce its rights under CEQA, which prohibits Moreno Valley's

1 approval of the Project.

2 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

3 22. This action is brought consistent with the requirements of Public Resources Code
4 section 21177 and Code of Civil Procedure sections 1085 and 1094.5. RCTC has exhausted all
5 available administrative remedies by objecting to Moreno Valley's approval of the Project prior
6 to Moreno Valley's certification of the EIR and approval of the Project and requesting that
7 Moreno Valley comply with CEQA. RCTC, other agencies, organizations, or individuals raised
8 or affirmed each of the legal deficiencies asserted in this Petition and Complaint orally or in
9 writing prior to Moreno Valley's adoption of the EIR and approval of the Project.

10 23. RCTC has complied with Public Resources Code section 21167.5 by prior
11 provision of notice to Moreno Valley indicating its intent to commence this action. The notice
12 and proof of service are attached hereto as Exhibit A.

13 24. Pursuant to Public Resources Code section 21167.7, RCTC has concurrently
14 provided a copy of this Petition and Complaint to the California Attorney General.

15 25. This lawsuit has been commenced within the time limits imposed for this action
16 under the Code of Civil Procedure and the Public Resources Code.

17 **THE PROJECT**

18 26. RCTC seeks issuance of a writ of mandate ordering Moreno Valley to vacate and
19 set aside its approvals of the Project.

20 27. As stated in the EIR, on or about February 26, 2012, Moreno Valley issued a
21 Notice of Preparation (NOP) to notify state agencies and the public that an EIR was going to be
22 prepared for the Project. During the NOP review period, Moreno Valley received responses from
23 many organizations and individuals, many of which expressed concerns about the Project's
24 significant size and likely impact on transportation and traffic.

25 28. RCTC is informed and believes that the Draft EIR was circulated for public review
26 on or about February 5, 2013, until approximately April 8, 2013.

27 29. During the Draft EIR's public review period, numerous commenters, including the
28 California Department of Transportation (Caltrans) and the Riverside County Transportation and

1 Land Management Agency (TLMA), submitted comments regarding inadequacies in the Draft
2 EIR's transportation and traffic analysis, including potentially unmitigated and significant
3 transportation and traffic impacts.

4 30. The Final EIR was released to the public in or about May of 2015.

5 31. In early June of 2015, prior to the Moreno Valley Planning Commission's
6 consideration of the EIR and Project, Caltrans, TLMA, RCTC, and others submitted letters to
7 Moreno Valley identifying outstanding deficiencies in the EIR, including transportation and
8 traffic issues. RCTC submitted a comment letter dated June 9, 2015.

9 32. Moreno Valley responded to these comment letters on June 10, 2015.

10 33. After a series of meetings held on June 11, 2015, and June 25, 2015, the Moreno
11 Valley Planning Commission recommended that the City Council certify the EIR and approve the
12 Project.

13 34. In August of 2015, prior to the City Council's consideration of the EIR and
14 Project, RCTC and others submitted additional letters to Moreno Valley reiterating the EIR's
15 deficiencies and explaining how Moreno Valley's June 10, 2015 responses failed to address the
16 inadequacies in the EIR's transportation and traffic analysis, including unmitigated and
17 significant transportation and traffic impacts.

18 35. RCTC is informed and believes, and on that basis alleges, that other comment
19 letters were also received by Moreno Valley, prior to certification of the EIR and approval of the
20 Project, that identified deficiencies in the EIR.

21 36. On or about August 19, 2015, the City Council held an initial public hearing on the
22 EIR and Project. After closing the public hearing, the City Council voted to adopt Resolution No.
23 2015-56 certifying the EIR. On or around the same date, the City Council also adopted the
24 following resolutions approving the Project: Resolution No. 2015-57, which approved General
25 Plan Amendment (PA12-0010); Resolution No. 2015-58, which approved Tentative Parcel Map
26 No. 36457 (PA12-0013); and Resolution 2015-59, which requested that LAFCO initiate
27 proceedings for the expansion of Moreno Valley's boundaries. On or around the same date, the
28 City Council also introduced the following ordinances for first reading: Ordinance No. 900,

1 approving Change of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and
2 Rezoning/Annexation (PA12-0014); and Ordinance No. 901, approving a Development
3 Agreement (PA12-0011).

4 37. Also on or about August 19, 2015, the CSD approved Resolution CSD 2015-29,
5 which requested that LAFCO initiate proceedings for the expansion of CSD's boundaries in
6 conjunction with the related annexation requested by the City Council.

7 38. On or about August 20, 2015, Moreno Valley filed a Notice of Determination
8 purporting to reflect its approval of a General Plan Amendment (PA12-0010), Development
9 Agreement (PA12-0011), Change of Zone (PA12-0012), Specific Plan (PA12-0013), Annexation
10 (PA12-0014), Tentative Parcel No. 36457 (PA12-0015), and an Environmental Impact Report
11 (P12-016) for the Project.

12 39. In conflict with the representations in the August 20, 2015 Notice of
13 Determination, the City Council held a meeting on August 25, 2015, whereat the City Council, on
14 second reading, adopted Ordinance No. 900, approving Change of Zone (PA12-0012), Specific
15 Plan Amendment (PA12-0013) and Rezoning/Annexation (PA12-0014); and Ordinance No. 901,
16 approving a Development Agreement (PA12-0011).

17 40. On or about August 26, 2015, Moreno Valley filed another Notice of
18 Determination, purporting to reflect its approval of Resolution No. 2015-57, which approved
19 General Plan Amendment (PA12-0010); Resolution No. 2015-58, which approved Tentative
20 Parcel Map No. 36457 (PA12-0013); Resolution 2015-59, which requested that LAFCO initiate
21 proceedings for the expansion of Moreno Valley boundaries; Resolution CSD 2015-29, which
22 requested that LAFCO initiate proceedings for the expansion of the CSD boundary in conjunction
23 with the related annexation requested by the City Council; Ordinance No. 900, approving Change
24 of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and Rezoning/Annexation
25 (PA12-0014); and Ordinance No. 901, approving a Development Agreement (PA12-0011). The
26 August 26, 2015 Notice of Determination did not include reference to the City's resolution
27 certifying the EIR.

28 ///

1 FIRST CAUSE OF ACTION

2 (Petition for Writ of Mandate Pursuant to Code Civ. Proc., §§ 1085 and 1094.5 - Violation
3 of CEQA)

4 (Against All Respondents and Real Parties in Interest)

5 41. RCTC incorporates herein by reference paragraphs 1 through 40, above, as though
6 set forth in full.

7 42. “[T]he legislature intended [CEQA] to be interpreted in such manner as to afford
8 the fullest possible protection to the environment within the reasonable scope of the statutory
9 language.” (*City of San Diego v. Board of Trustees of the California State University* (2015) 61
10 Cal.4th 945, 963 [internal punctuation and citation omitted].) When complying with CEQA, a
11 lead agency must proceed in the manner required by law, and its determinations must be
12 supported by substantial evidence. (Pub. Resources Code, § 21168.5.) “CEQA requires a public
13 agency to mitigate or avoid its projects’ significant effects not just on the agency’s own property
14 but on the environment.” (*City of San Diego, supra*, 61 Cal.4th at 957.) “CEQA defines the
15 environment as the physical conditions which exist *within the area which will be affected by a*
16 *proposed project* and mandates that each public agency shall mitigate or avoid the significant
17 effects *on the environment* of projects that it carries out or approves whenever it is feasible to do
18 so.” (*Id.* at 960 [italics in original, internal quotes and citations omitted].) “An EIR that
19 incorrectly disclaims the power and duty to mitigate identified environmental effects based on
20 erroneous legal assumptions is not sufficient as an informative document, and an agency’s use of
21 an erroneous legal standard constitutes a failure to proceed in a manner required by law.” (*Id.* at
22 956 [internal citations omitted].)

23 43. RCTC is informed and believes, and on that basis alleges, that Moreno Valley
24 violated CEQA in numerous ways.

25 44. Moreno Valley’s failure to comply with CEQA includes, but is not limited to, the
26 following:

27 a. **Failure to Identify and Adequately Analyze Project Impacts:** An EIR’s
28 conclusions must be supported by substantial evidence in the administrative record. Here, despite

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1 Moreno Valley's own statements to the contrary, the EIR failed to fully and properly analyze the
2 potential for the Project to impact the environment. For example, although Section 4.15 of the
3 EIR discusses a traffic study, and admits that the Project will have significant impacts on area
4 roadways, segments, intersections and freeway facilities (Draft EIR, 4.15-222), the traffic study
5 and EIR failed to include discussion of the Project's full impacts on Gilman Springs Road,
6 particularly the segment from Bridge Street to Lambs Canyon/Sanderson. This and other
7 omissions render the EIR's analysis of potential Transportation/Traffic impacts of the Project
8 inadequate under CEQA.

9 b. **Failure to Adopt Adequate Mitigation Measures:** "[E]ach public agency shall
10 mitigate or avoid the significant effects on the environment of projects that it carries out or
11 approves whenever it is feasible to do so." (Pub. Resources Code, § 21002.1(b).) mitigation of a
12 project's impacts can be accomplished by (1) Avoiding the impact by not taking a certain action
13 or parts of the action, (2) Minimizing impacts by limiting an activity; Repairing, rehabilitating, or
14 restoring the affected environment, (3) Reducing or eliminating an impact over time through
15 preservation and maintenance operations, or (4) Compensating for an impact by replacing or
16 providing substitute resources or environments, including the payment of fees to provide
17 mitigation for an impact identified in an EIR. (14 Cal. Code of Regulations (CEQA Guidelines), §
18 15370.) Here, substantial evidence in the record reflects that Moreno Valley failed to adopt
19 adequate mitigation measures. For example the EIR states that the Project will have significant
20 and unavoidable impacts on "Roads Outside the Jurisdiction of the City and Not Part of the
21 TUMF [Transportation Uniform Mitigation Fees] Program" and "TUMF Facilities." (EIR at 1-
22 22.) This lengthy list of significantly-impacted roads includes "all freeway mainline, weaving,
23 and ramp facilities." (EIR at 4.15-239.) The EIR concludes that these impacts are significant and
24 unavoidable because no fair-share program currently exists for numerous roads outside the City's
25 jurisdiction, and "the City cannot guarantee that such a mechanism will be established and [the
26 City] does not have direct control over facilities outside of its jurisdiction." (EIR at 4.15-237.)
27 However, as explained in a comment letter from Caltrans on August 17, 2015:

28 "Nothing in CEQA requires Caltrans to adopt a contribution

1 program before fair share payments can be considered adequate
2 mitigation. All that is required is that mitigation be part of a
3 reasonable plan of actual mitigation that the relevant agency
4 commits itself to implementing. Here specific mitigation measures
5 were identified in consultation with Caltrans. Caltrans is willing to
6 commit to work with the City, or other local partners and other
7 developers to secure the funding for and to implement these, or
8 comparable measure's [sic] subject to future CEQA compliance
9 requirements as applicable. If the City prefers additional assurance
10 about how the fair share contributions will be used, reasonable
11 mechanisms exist to provide those assurances, such as traffic
12 mitigation agreements or cooperative agreements.

13 Unfortunately, the City has not explored those options or consulted
14 with Caltrans regarding any others. Thus the City's take it or leave
15 it condition that Caltrans adopt a contribution plan or no payment is
16 required does not comply with CEQA's mandate that the lead
17 agency include all reasonable mitigation. And the fact that the FEIR
18 did not examine these options demonstrate that the City's
19 conclusion that such mitigation would be infeasible is unsupported
20 by substantial evidence."

21 This confirms the validity of the traffic concerns expressed by many members of the public and
22 RCTC who commented on the Project, namely that, mitigation was available to reduce the
23 Project's significant impacts to area roads. Moreno Valley's failure to incorporate this mitigation
24 is an abuse of discretion. Further, Moreno Valley's improper rejection of the mitigation is not
25 supported by substantial evidence.

26 **c. Failure to Adequately Respond to Comments on the Draft EIR: CEQA**
27 requires lead agencies to evaluate comments on the draft EIR and prepare written responses for
28 inclusion in the EIR. (Pub. Resources Code, § 21091(d).) When a significant environmental issue
is raised in comments, the response must be detailed and provide a reasoned, good faith analysis.
(CEQA Guidelines, § 15088(c).) Caltrans, TLMA, and others provided Moreno Valley with
detailed comments as to how to make the Draft EIR's traffic and transportation analysis legally
adequate. But Moreno Valley did not sufficiently respond to or incorporate the feasible
suggestions proposed by commenters, including potential mitigation measures and areas of
analysis that could be improved.

d. Failure to Adopt Legally Adequate Findings: When an EIR identifies
significant environmental effects that may result from a project, the lead agency must make one
or more specific findings for those impacts. (Pub. Resources Code, § 21081; CEQA Guidelines, §

1 15091(a.) Findings of infeasibility must be specific and supported by substantial evidence in the
2 record. (Pub. Resources Code, § 21081.5.) “[I]t is the policy of the state that public agencies
3 should not approve projects as proposed if there are feasible alternatives or feasible mitigation
4 measures available which would substantially lessen the significant environmental effects of such
5 projects.” (Pub. Resources Code, § 21002.) Here, specific and feasible mitigation measures were
6 proposed by RCTC and others to reduce the Project's significant impacts on transportation and
7 traffic. But Moreno Valley, without incorporating the proposed mitigation measures and without
8 substantial evidence, stated in its findings that the Project's transportation and traffic impact is
9 “reduced to the extent feasible.” This is a violation of CEQA.

10 e. **Failure to Conduct Sufficient Environmental Review:** Moreno Valley failed to
11 conduct sufficient environmental review for the Project despite the fact that Moreno Valley's own
12 documentation concedes that the Project has the potential to cause a number of foreseeable direct
13 and indirect potentially significant impacts. The EIR and its process also violate CEQA in
14 numerous other ways due to deficiencies in the EIR's environmental setting, inadequate
15 disclosure and analysis, inadequate mitigation and failure to address potentially significant
16 impacts. The inadequacies described above and in this paragraph are prejudicial and require
17 Project approvals to be revoked and full environmental review in compliance with CEQA
18 conducted before the Project can proceed.

19 f. **Failure to Adopt an Adequate Statement of Overriding Considerations:**
20 When an agency approves a project with significant environmental effects that will not be
21 avoided or substantially lessened, it must adopt a statement of overriding considerations. (CEQA
22 Guidelines, § 15043.) Moreno Valley failed to adopt a legally adequate Statement of Overriding
23 Considerations in that the overriding considerations are not supported by substantial evidence in
24 the record.

25 45. Moreno Valley thereby violated its duties to comply with CEQA and the CEQA
26 Guidelines. Accordingly, the EIR and Project approvals must be set aside. And RCTC asks this
27 Court for an award of attorney's fees and costs against Respondents and Real Parties in Interest as
28 permitted or required by law.

1 **SECOND CAUSE OF ACTION**

2 **(Declaratory Relief)**

3 **(Against All Respondents and Real Parties in Interest)**

4 46. RCTC hereby incorporates by this reference the allegations of Paragraphs 1
5 through 45 as though fully set forth herein.

6 47. An actual controversy has arisen and now exists between RCTC and Moreno
7 Valley. RCTC contends that Moreno Valley has not complied with the provisions of CEQA in
8 certifying the EIR and approving the Project. RCTC believes that the Project will cause it
9 irreparable injury for which RCTC has no adequate remedy at law and will have significant
10 adverse effects on the environment.

11 48. RCTC is informed and believes, and on that basis alleges, that Moreno Valley
12 disputes the contentions of RCTC as described in the immediately preceding paragraph.

13 49. RCTC seeks a judicial declaration and determination of the respective rights and
14 duties of Moreno Valley.

15 50. A judicial declaration and determination is necessary and appropriate at this time
16 in order that RCTC may ascertain its rights with respect to the duties and obligations of Moreno
17 Valley and in order to resolve all controversies between the parties hereto regarding such rights
18 and duties.

19 51. RCTC asks this Court for an award of attorney's fees and costs against
20 Respondents and Real Parties in Interest as permitted or required by law.

21 **PRAYER**

22 WHEREFORE, Petitioner and Plaintiff prays for entry of judgment as follows:
23

24 **ON THE FIRST CAUSE OF ACTION**

25 **(Against All Respondents and Real Parties in Interest)**

26 1. For a writ of mandate pursuant to Code of Civil Procedure sections 1085 and 1094.5 and
27 Public Resources Code section 21167 directing Moreno Valley as follows:

28 a. To set aside adoption of the EIR;

- 1 b. To rescind approval of the Project;
- 2 c. To cease, vacate, and set aside all actions related to the authorization, approval,
- 3 and execution of the Project;
- 4 d. To prepare and circulate, in compliance with CEQA and the CEQA Guidelines
- 5 adequate environmental review, prior to any re-approval; and
- 6 e. To prohibit any action by Moreno Valley in furtherance of the Project until
- 7 Respondents comply with the mandates of CEQA.
- 8 2. For a stay, temporary restraining order, preliminary injunction, and permanent injunction
- 9 prohibiting any actions by Moreno Valley or the Real Parties In Interest pursuant to
- 10 Moreno Valley's approval of the Project until Moreno Valley fully complies with all
- 11 requirements of CEQA and all other applicable state and local laws, policies, ordinances,
- 12 and regulations;

13 **ON THE SECOND CAUSE OF ACTION**

14 **(Against All Respondents and Real Parties in Interest)**

- 15 1. That this Court declare Moreno Valley's discretionary approval of the Project in violation
- 16 of CEQA as set forth above.
- 17 2. That this Court declare that Moreno Valley must properly prepare, circulate, and consider
- 18 adequate environmental documentation for the Project in order to meet the requirements
- 19 of CEQA.


20 **ON ALL CAUSES OF ACTION**

21 **(Against All Respondents and Real Parties in Interest)**

- 22 1. For an award of attorneys' fees incurred in this matter as permitted or required by law.
- 23 (Code Civ. Proc., § 1021.5.);
- 24 2. For RCTC's costs of suit incurred herein; and
- 25 3. For such other and further relief as the Court deems just and proper.
- 26
- 27
- 28

1 Dated: September 17, 2015

BEST BEST & KRIEGER LLP

2
3 By: 

4 MICHELLE OUELLETTE
5 CHARITY SCHILLER
6 ANDREW M. SKANCHY
7 Attorneys for Petitioner/Plaintiff
8 Riverside County Transportation
9 Commission

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EXHIBIT A



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Michelle Ouellette
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File No. 26506.00036

September 17, 2015

VIA FIRST CLASS MAIL

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

Re: Notice of Commencement of Action

Dear Ms. Halstead:

On behalf of our client, the Riverside County Transportation Commission (the "RCTC"), please take notice, pursuant to Public Resources Code section 21167.5, that the RCTC is commencing an action against the City of Moreno Valley (the "City") by filing a Petition for Writ of Mandate in the Superior Court of California, County of Riverside.

The Petition challenges the following approvals of the World Logistics Center Project by the City and the Moreno Valley Community Services District:

1. Resolution No. 2015-56 certifying the Final Environmental Impact Report (P12-016), adopting Findings and Statement of Overriding Considerations and approving the Mitigation Monitoring Program for the World Logistics Center Project;

2. Resolution No. 2015-57 approving General Plan Amendments (PA12-0010), including land use changes for property within the World Logistics Center Specific Plan Area to business park/light industrial (BP) and open space (OS), properties outside of the World Logistics Center Specific Plan to open space (OS) and corresponding General Plan element goals and objectives text and map amendments to the community development, circulation, parks, recreation and open space, safety and conservation elements;

3. Resolution No. 2015-58 approving PA12-0015 (Tentative Parcel Map No. 36457) for the purposes of establishing 26 parcels for financing and conveyance purposes, including an 85 acre parcel of land currently located in the County of Riverside adjacent to Gilman Springs Road and Alessandro Boulevard and which is included in the World Logistics Center Specific Plan;



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 17, 2015
Page 2

4. Resolution No. 2015-59 requesting the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the City boundary for approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard (APN Nos. 422-130-002 and 422-130-003);

5. Resolution No. 2015-29 to request the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the Community Services District boundary to include approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard in conjunction with a related annexation (APN Nos. 422-130-002 and 422-130-003);

6. Ordinance No. 900 approving PA12-0012 (change of zone), PA12-0013 (Specific Plan) and PA12-0014 (pre-zoning/annexation), which include the proposed World Logistics Center Specific Plan, a full repeal of the Moreno Highlands Specific Plan No. 212-1, pre-zoning/annexation for 85 acres at northwest corner of Gilman Springs Road and Alessandro Boulevard, change of zone to logistics development (LD), light logistics (LL) and open space (OS) for areas within the proposed World Logistics Center Specific Plan boundary, and a change of zone to open space (OS) for those project areas outside and southerly of the proposed World Logistics Center Specific Plan boundary; and

7. Ordinance No. 901 approving PA12-0011 (Development Agreement) for the World Logistics Center Project which real estate Highland Fairview has legal or equitable interest in, on approximately 2,263 acres, within the World Logistics Specific Plan area (2,610 acres), intended to be developed as high cube logistics warehouse and related ancillary uses generally east of Redlands Boulevard, South of State Route 60, West of Gilman Springs Road and North of the San Jacinto Wildlife area.

The grounds for RCTC's Petition is that the City failed to comply with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

Sincerely,

Michelle Ouellette
of BEST BEST & KRIEGER LLP

MO:tli

cc: Anne Mayer, Executive Director,
Riverside County Transportation Commission



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 17, 2015
Page 3

PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is 3390 University Avenue, 5th Floor, P.O. Box 1028, Riverside, California 92502. On September 17, 2015, I served the following document(s):

NOTICE OF COMMENCEMENT OF ACTION

- By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
- By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):
- Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - Placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Riverside, California.

- By personal service.** At ___ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 17, 2015
Page 4

- By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service for service. A Declaration of Messenger is attached.
- By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- By e-mail or electronic transmission.** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 17, 2015, at Riverside, California.


Monica Castanon

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF DEPARTMENT ASSIGNMENT

CASE NO. RIC1511130

VS

TO

This case has been assigned to the HONORABLE Judge Craig G. Riemer in Department 05 for all purposes

Department 5 is located at 4050 Main Street, Riverside, CA 92501.

Any disqualification pursuant to CCP section 170.6 shall be filed in accordance with that section

The filing party shall serve a copy of this notice on all parties

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See California Rules of Court, rule 1.100

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing NOTICE on this date, by depositing said copy as stated above.

Court Executive Officer/Clerk

Date 09/17/15

by: _____

RHIANNEN K ALESSANDRO, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF STATUS CONFERENCE

RIVERSIDE COUNTY TRANSPORTATION COMMISSION VS. CIT

CASE NO. RIC1511130

The Status Conference is scheduled for:

DATE: 11/17/15
TIME: 8:30 a.m.
DEPT: 05

All matters including, but not limited to, Fast Track hearings, law and motion, and settlement conference hearings shall be heard by the assigned judge until further order of the Court.

Any disqualification pursuant to CCP 170.6 shall be filed in accordance with that section.

The plaintiff/cross-complainant shall serve a copy of this notice on all defendants/cross-defendants who are named or added to the complaint and file proof of service.


Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See CA Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing Notice of Assignment To Department For Case Management Purposes and Status Conference on this date, by depositing said copy as stated above

Dated: 09/17/15

Court Executive Officer/Clerk

By: 
RHIANNEN K ALESSANDRO, Deputy Clerk

ac:stch shw

**SUMMONS
(CITACION JUDICIAL)**

CITY CLERK
MORENO VALLEY
RECEIVED

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

15 SEP 18 PM 3: 44

CITY OF MORENO VALLEY, a public entity, and
CITY COUNCIL OF MORENO VALLEY, a public entity

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

SOCAL ENVIRONMENTAL JUSTICE ALLIANCE, a California
not-for-profit corporation

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

M. Preciado

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la Información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): **Riverside County Superior Court**
4050 Main Street
Riverside, CA 92501

CASE NUMBER:
(Número del Caso): **RIC 1511195**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Craig M. Collins, Blum Collins LLP, 707 Wilshire Blvd., Suite 4880, Los Angeles 90017 213-572-0400

DATE: **SEP 18 2015** Clerk, by **M. PRECIADO**, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify): **City of Moreno Valley, A public entity**
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify): **Public entity**
- by personal delivery on (date): **SEP 18 2015**

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

M. Preciado

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

Highland Fairview, 14225 Corporate Way, Moreno Valley, CA 92563

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

SoCal Environmental Justice Alliance

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

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The name and address of the court is:
(El nombre y dirección de la corte es): **Riverside County Superior Court**
4050 Main Street
Riverside, CA 92501

CASE NUMBER:
(Número del Caso) **RIC1511195**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Craig M. Collins, Esq., Blum Collins LLP, 707 Wilshire Blvd., Suite 4880, Los Angeles CA 90017

DATE: **SEP 18 2015** Clerk, by **M. PRECIADO**, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

- NOTICE TO THE PERSON SERVED:** You are served
- as an individual defendant.
 - as the person sued under the fictitious name of (specify):
 - on behalf of (specify):

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
 - by personal delivery on (date):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF STATUS CONFERENCE

SOCAL ENVIRONMENTAL JUSTICE ALLIANCE VS CITY OF MO

CASE NO. RIC1511195

The Status Conference is scheduled for:

DATE: 11/17/15
TIME: 8:30 a.m.
DEPT: 05

All matters including, but not limited to, Fast Track hearings, law and motion, and settlement conference hearings shall be heard by the assigned judge until further order of the Court.

Any disqualification pursuant to CCP 170.6 shall be filed in accordance with that section.

The plaintiff/cross-complainant shall serve a copy of this notice on all defendants/cross-defendants who are named or added to the complaint and file proof of service.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See CA Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing Notice of Assignment To Department For Case Management Purposes and Status Conference on this date, by depositing said copy as stated above

Dated: 09/18/15

Court Executive Officer/Clerk

By:

M. PRECIADO
MARIA M PRECIADO, Deputy Clerk

ac:stch shw

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF DEPARTMENT ASSIGNMENT

CASE NO. RIC1511195

vs

TO:

This case has been assigned to the HONORABLE Judge Craig G. Rierner in Department 05 for all purposes.

Department 5 is located at 4050 Main Street, Riverside, CA 92501.

Any disqualification pursuant to CCP section 170.6 shall be filed in accordance with that section.

The filing party shall serve a copy of this notice on all parties.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See California Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing NOTICE on this date, by depositing said copy as stated above.

Court Executive Officer/Clerk

by: M. PRECIADO

MARIA M PRECIADO, Deputy Clerk

Date: 09/18/15

1 BLUM COLLINS, LLP
2 Craig M. Collins (Bar No. 151582)
3 Gary Ho (Bar No. 229995)
4 707 Wilshire Boulevard, Suite 4880
5 Los Angeles, California 90017-3501
6 Telephone: 213.572.0400
7 Facsimile: 213.572.0401

8 Attorneys for Petitioner
9 SoCal Environmental Justice Alliance

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

M. Preciado

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

11 **SOCAL ENVIRONMENTAL JUSTICE**
12 **ALLIANCE, a California not for profit**
13 **corporation,**

13 **Petitioner,**

14 **v.**

15 **CITY OF MORENO VALLEY, a California**
16 **municipal corporation; CITY COUNCIL OF**
17 **MORENO VALLEY, a public entity,**

17 **Respondents,**

18 **HIGHLAND FAIRVIEW, an unknown entity**
19 **located in Moreno Valley, California**

20 **Real parties in interest.**

Case No.

RIC 1511195

NOTICE TO THE ATTORNEY GENERAL
OF COMMENCEMENT OF ACTION
[Pub. Resources Code § 21167.7 and Code of
Civil Procedure § 388]


Case Designation: CEQA

1 TO THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA

2 Pursuant to Pub. Resources Code § 21167.7 and Code of Civil Procedure § 388,
3 Petitioner Social Environmental Justice Alliance hereby notifies you that it is filing a Petition for
4 Writ of Mandate in the above-captioned action against the City of Moreno Valley and the City
5 Council of Moreno Valley alleging violations of the California Environmental Quality Act and
6 the State Planning and Zoning Law and Moreno Valley Municipal Code for violations of the
7 City's General Plan. A true and correct copy of that Petition is enclosed.

8 Dated: September 17, 2015

9 BLUM COLLINS, LLP
10 Craig M. Collins
11 Gary Ho

12 By 
13 Craig Collins
14 Attorneys for Plaintiffs

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1 BLUM COLLINS, LLP
2 Craig M. Collins (Bar No. 151582)
3 Gary Ho (Bar No. 229995)
4 707 Wilshire Boulevard, Suite 4880
5 Los Angeles, California 90017-3501
6 Telephone: 213.572.0400
7 Facsimile: 213.572.0401

8 Attorneys for Petitioner
9 SoCal Environmental Justice Alliance

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

M. Preciado

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF RIVERSIDE**

13 **SOCAL ENVIRONMENTAL JUSTICE**
14 **ALLIANCE**, a California not for profit
15 corporation,

16 Petitioner,

17 v.

18 **CITY OF MORENO VALLEY**, a California
19 municipal corporation; **CITY COUNCIL OF**
20 **MORENO VALLEY**, a public entity,

21 Respondents,

22 **HIGHLAND FAIRVIEW**, an unknown entity
23 located in Moreno Valley, California

24 Real parties in interest.

Case No. **RIC 1511 195**

NOTICE OF ELECTION TO PREPARE
ADMINISTRATIVE RECORD
[Pub. Resources Code § 21167.6 *et seq.*]

Case Designation: CEQA

1 Pursuant to Pub. Resources Code § 21167.6, Petitioner hereby notifies the City of
2 Moreno Valley and the City Council of Moreno Valley that it elects to prepare the administrative
3 record in the above-entitled action.

4 Dated: September 7, 2015

5 BLUM COLLINS, LLP
6 Craig M. Collins
7 Gary Ho

8 By 
9 Craig Collins
10 Attorneys for Plaintiffs

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1 BLUM COLLINS, LLP
2 Craig M. Collins (Bar No. 151582)
3 Gary Ho (Bar No. 229995)
4 707 Wilshire Boulevard, Suite 4880
5 Los Angeles, California 90017-3501
6 Telephone: 213.572.0400
7 Facsimile: 213.572.0401
8 Attorneys for Petitioner
9 SoCal Environmental Justice Alliance
10

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

M. Preciado

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF RIVERSIDE

11 SOCIAL ENVIRONMENTAL JUSTICE
12 ALLIANCE, a California not for profit
13 corporation,
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15 Petitioner,
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17 v.
18 CITY OF MORENO VALLEY, a California
19 municipal corporation; CITY COUNCIL OF
20 MORENO VALLEY, a public entity,
21
22 Respondents,
23
24 HIGHLAND FAIRVIEW, an unknown entity
25 located in Moreno Valley, California
26
27 Real parties in interest.
28

RIC
Case No. 15111951

**PETITIONER'S NOTICE OF REQUEST
AND REQUEST FOR HEARING ON
PETITION FOR WRIT OF MANDATE
PURSUANT TO PUB. RESOURCES CODE
§ 21167.4(a) AND NOTICE TO PARTIES OF
REQUEST PURSUANT TO PUB.
RESOURCES CODE § 21167.4(b)**

1 **TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD**

2 **PLEASE TAKE NOTICE** that Pursuant to Pub. Resources Code § 21167.4, Petitioner
3 Social Environmental Justice Alliance (“Petitioner”) hereby requests a hearing on the ultimate
4 merits of the Petition for Writ of Mandate filed herewith, which alleges violation of the
5 California Environmental Quality Act, Pub. Resources Code § 21000 *et seq.* (“CEQA”), when
6 Respondent City of Moreno Valley approved the World Logistics Center Specific Plan.

7 Pub. Resources Code section 21167.4(a) requires that the petitioner in a CEQA action
8 request a hearing date on the petition within ninety (90) days of the filing of the petition. Pub.
9 Resources Code section 21167.4(b) requires that the petitioner shall serve notice of the request at
10 the same time the request is filed. Petitioner is doing both with the filing of its Petition.

11 The request for hearing must be made in writing. *County of Sacramento v. Superior*
12 *Court* (2009) 180 Cal. App. 4th 943, 949. The hearing, once requested, need not be held within
13 the ninety day period, and the request for hearing is not required to include the setting of a
14 hearing date. *Leavitt v. County of Madera* (2004) 123 Cal. App. 4th 1502, 1521, 1513-1523,
15 *McCormick v. Board of Supervisors* (1988) 198 Cal. App. 3d 352, 357-358. Following the filing
16 of a notice and request for hearing, any party may apply to the court to establish a briefing
17 schedule and hearing date. *Torrey Hills Community Coalition v. City of San Diego* (2010) 186
18 Cal. App. 4th 429, 442, *citing Ass’n for Sensible Development at Northstar, Inc. v. Placer*
19 *County* (2004) 122 Cal. App. 4th 1289, 1294. The hearing date, time, and place, and the briefing
20 schedule for the hearing are to be established by the Court following such application by any
21 party. *Id.*

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Accordingly, as required pursuant to Public Resources Code sections 21167.4(a) and (b),
Petitioner hereby requests and notices its request for hearing on the Petition for Writ of Mandate.

Dated: September 17, 2015

BLUM COLLINS, LLP
Craig M. Collins
Gary Ho

By 

Craig Collins
Attorneys for Plaintiffs

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

- BANNING 311 E. Ramsey St., Banning, CA 92220
- BLYTHE 265 N. Broadway, Blythe, CA 92225
- HEMET 880 N. State St., Hemet, CA 92543
- MORENO VALLEY 13800 Heacock St., Ste. D201, Moreno Valley, CA 92553

- MURRIETA 30755-D Auld Rd., Suite 1226, Murrieta, CA 92563
- PALM SPRINGS 3255 E. Tahquitz Canyon Way, Palm Springs, CA 92262
- RIVERSIDE 4050 Main St., Riverside, CA 92501
- TEMECULA 41002 County Center Dr., #100, Temecula, CA 92591

RI-030

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address) Craig M. Collins, Esq. (SBN 151582) Blum Collins LLP 707 Wilshire Blvd., Suite 4880 Los Angeles, CA 90017</p> <p>TELEPHONE NO: 213-572-0400 FAX NO. (Optional): 213-572-0401 E-MAIL ADDRESS (Optional): collins@blumcollins.com ATTORNEY FOR (Name): SoCal Environmental Justice Alliance</p>	<p>FOR COURT USE ONLY</p> <p>FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE</p> <p>SEP 18 2015</p> <p>M. Preciado</p> <p>CASE NUMBER: 1511195</p> <p>RIC</p>
<p>PLAINTIFF/PETITIONER: SoCal Environmental Justice Alliance</p> <p>DEFENDANT/RESPONDENT: City of Moreno Valley</p>	
<p>CERTIFICATE OF COUNSEL</p>	

The undersigned certifies that this matter should be tried or heard in the court identified above for the reasons specified below:

- The action arose in the zip code of: 92552
- The action concerns real property located in the zip code of: _____
- The Defendant resides in the zip code of: _____

For more information on where actions should be filed in the Riverside County Superior Courts, please refer to Local Rule 1.0015 at www.riverside.courts.ca.gov.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date September 18, 2015

Craig M. Collins
(TYPE OR PRINT NAME OF ATTORNEY PARTY MAKING DECLARATION)



(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Craig M. Collins, Esq. (SBN 151582) Blum Collins, LLP 707 Wilshire Blvd., Suite 4880 Los Angeles, CA 90017 TELEPHONE NO.: 213-572-0400 FAX NO.: 213-572-0401 ATTORNEY FOR (Name): SoCal Environmental Justice Alliance	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside STREET ADDRESS: 4050 Main Street MAILING ADDRESS: CITY AND ZIP CODE: Riverside, CA 92501 BRANCH NAME: Historic Courthouse	
CASE NAME: SoCal Environmental Justice Alliance v. City of Moreno Valley (Highland)	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
	CASE NUMBER: RIC1511195 JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other P/IPD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other P/IPD/W/D (23) Non-P/IPD/W/D (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/IPD/W/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input checked="" type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): 8
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date:
 Craig M. Collins

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Anti-trust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

M. Preciado

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF RIVERSIDE**

10
11 **SOCAL ENVIRONMENTAL JUSTICE**
12 **ALLIANCE**, a California not for profit
13 corporation,

14 **Petitioner,**

15 **v.**

16 **CITY OF MORENO VALLEY**, a California
17 municipal corporation; **CITY COUNCIL OF**
18 **MORENO VALLEY**, a public entity,

19 **Respondents,**

20 **HIGHLAND FAIRVIEW**, an unknown entity
21 located in Moreno Valley, California

22 **Real parties in interest.**

RIC
Case No. 1511195

**VERIFIED PETITION FOR WRIT OF
MANDATE PURSUANT TO THE
CALIFORNIA ENVIRONMENTAL
QUALITY ACT**
[Code of Civil Procedure §§ 1085, 1094.5;
Pub. Resources Code § 21000 *et seq.*]

Case Designation: CEQA

23 Pursuant to California Code of Civil Procedure sections 1085 and/or 1094.5 and
24 California Public Resources Code section 21000 *et seq.*, the SoCal Environmental Justice
25 Alliance (Petitioner) brings this action on its own behalf, on behalf of its members, and on behalf
26 of the general public to enforce the California Environmental Quality Act, the California
27 Planning and Zoning Law, and the Moreno Valley Municipal Code, and allege as follows:

28 **INTRODUCTION**

1. This action challenges the approval by the City Council of Moreno Valley of a

1 Development Agreement, a Specific Plan, and General Plan Amendments, with associated
2 California Environmental Quality Act (“CEQA”) documents, for the approval of the massive
3 “World Logistics Center” project, to be located on 2,610 acres and encompassing 40.6 million
4 square feet of warehouse space.

5 2. Specifically, the SoCal Environmental Justice Alliance (SEJA) seeks to set aside
6 the following approvals:

7 a. Resolution No. 2015-56, certifying the final environmental impact report (p12-
8 016), adoption of the findings and statement of overriding considerations, and approving the
9 mitigation monitoring program for the World Logistics Center Project,

10 b. Resolution No. 2015-57, approving amendments to the City’s General Plan,

11 c. Ordinance No. 900, approving PA12-0012 (change of zone), PA12-0013 (specific
12 plan) and PA12-0014 (prezoning/annexation), which include the proposed World Logistics
13 Center Specific Plan, a full repeal of the Moreno Highlands Specific Plan No. 212-1, pre-
14 zoning/annexation for 85 acres at northwest corner of Gilman Springs Road and Alessandro
15 Boulevard, change of zone to logistics development (LD), light logistics (LL) and open space
16 (OS) for areas within the proposed World Logistics Center Specific Plan boundary, and a change
17 of zone to open space (OS) for those project areas outside and southerly of the proposed World
18 Logistics Center Specific Plan boundary.

19 d. Resolution 2015-58, A Resolution Of The City Council Of The City Of Moreno
20 Valley, California, Approving PA12-0015 (Tentative Parcel Map No. 36457) For The Purposes
21 Of Establishing Twenty-Six (26) Parcels For Financing And Conveyance Purposes, Including An
22 85 Acre Parcel Of Land Currently Located In The County Of Riverside Adjacent To Gilman
23 Springs Road and Alessandro Boulevard And Which Is Included In The World Logistics Center
24 Specific Plan,

25 e. Ordinance No. 901, An Ordinance Of The City Council Of The City Of Moreno
26 Valley, California, Approving PA12-0011 (Development Agreement) For The World Logistics
27 Center Project Which Real Estate Highland Fairview Has Legal Or Equitable Interest In, On
28 Approximately 2,263 Acres, Within The World Logistics Specific Plan Area (2,610 Acres),

1 Intended To Be Developed As High Cube Logistics Warehouse And Related Ancillary Uses
2 Generally East Of Redlands Boulevard, South Of State Route 60, West Of Gilman Springs Road
3 And North Of The San Jacinto Wildlife Area.

4 f. Resolution 2015-59, A Resolution Of The City Council Of The City Of Moreno
5 Valley, California, Requesting The Riverside Local Agency Formation Commission To Initiate
6 Proceedings For The Expansion Of The City Boundary For Approximately 85 Acres Of Land
7 Located Along Gilman Springs Road And Alessandro Boulevard (Apn Nos. 422-130- 002 And
8 422-130-003).

9 g. Resolution CSD 2015-29, A Resolution Of The Moreno Valley Community
10 Services District Of The City Of Moreno Valley, California, To Request The Riverside Local
11 Agency Formation Commission To Initiate Proceedings For The Expansion Of The Community
12 Services District Boundary To Include Approximately 85 Acres Of Land Located Along Gilman
13 Springs Road And Alessandro Boulevard In Conjunction With A Related Annexation (Apn Nos.
14 422-130-002 And 422-130- 003).

15 3. A Notice of Determination for the Project was posted on August 26, 2015.

16 4. In approving the Project the City violated provisions of CEQA requiring that the
17 EIR adequately analyze impacts to aesthetics, air quality, biological resources, hydrology and
18 water quality, hazards and hazardous materials, land use and planning, noise, traffic, greenhouse
19 gas emissions, and cumulative impacts. The City further violated the requirement that it analyze
20 a reasonable range of alternatives, and that it adopt an environmentally superior alternative. The
21 City failed to adopt all feasible mitigation for project impacts, and the analysis of impacts and
22 the planned mitigation measures are uncertain and are unreasonably deferred. The City achieved
23 this result in part by adopting a "programmatic" EIR for what should have been project-level
24 analysis and a project level EIR. Whether the City chose a programmatic EIR or not, the level of
25 review should have been sufficient to allow decisionmakers to intelligently consider the
26 environmental consequences of the Project.

27 5. The City adopted changes to the project without revising and recirculating the
28 EIR to disclose changes and new information developed while the EIR was pending.

1 6. Finally, the City's Findings of Fact and Statement of Overriding Considerations
2 were not supported by substantial evidence in the record. The Statement of Overriding
3 Considerations was improperly adopted when feasible mitigation measures and alternatives
4 existed to lessen significant project impacts.

5 7. The City also violated the State Planning and Zoning Law and the Moreno Valley
6 Municipal Code by approving the project when it is inconsistent with the Moreno Valley General
7 Plan.

8 **JURISDICTION AND VENUE**

9 8. This Court has jurisdiction under Code of Civil Procedure sections 1085 and
10 1094.5 and for declaratory relief under Code of Civil Procedure section 1060. The Court has
11 jurisdiction of CEQA matters pursuant to Pub. Resources Code sections 21168, 21168.5, and
12 21168.9.

13 9. Venue is proper in this Court because the City is located in Riverside County and
14 the Project is located here as well, so the actions giving rise to the causes of action herein
15 transpired in Riverside County. *See* Code of Civil Procedure sections 393 and 394.

16 10. This action is timely filed within 30 days of the posting of the Notice of
17 Determination under CEQA on August 26, 2015.

18 11. Petitioner has exhausted its administrative remedies by commenting on the
19 Project prior to the close of the public hearing on the Project before the filing of the Notice of
20 Determination, in compliance with Public Resources Code section 21177(b).

21 12. Petitioner has complied with CEQA by filing and serving with this Petition for
22 Writ of Mandate a Notice of Intent to File pursuant to Pub. Resources Code section 21167.5, and
23 by complying with Pub. Resources Code section 21167.6 in notifying the City of Petitioner's
24 election to prepare the administrative record, and in notifying the Attorney General of the
25 commencement of this action pursuant to Pub. Resources Code section 21167.7 and Code of
26 Civil Procedure section 388.

27 **PARTIES**

28 13. Petitioner SoCal Environmental Justice Alliance ("SEJA") is an advocacy

1 organization devoted to the preservation of the environment as well as the promotion of safe and
2 healthy communities. Members of SEJA reside in Moreno Valley and would be irreparably
3 harmed by the Project's environmental impacts. Members of SEJA submitted comments on the
4 Project. Members of SEJA bring this action on behalf of the public and are acting as private
5 attorney generals conferring a significant benefit on the general public or a large class of persons
6 under Code of Civil Procedure section 1021.5.

7 14. Respondent City of Moreno Valley (hereafter "City") is a public entity located in
8 Riverside County and the lead agency for the Project under CEQA. City is the agency charged
9 with the authority of regulating and administering land use and development within its territory
10 in compliance with the provisions of its General Plan and zoning ordinances as well as
11 applicable provisions of state law including CEQA. As the lead agency for the Project, the City
12 of Moreno Valley is charged with the duty of ensuring compliance with these applicable laws.

13 15. Respondent City Council of Moreno Valley is the elected body within the City
14 and is responsible for making administrative decisions and hearing administrative appeals made
15 from City departments.

16 16. Real party in interest Highland Fairview is the Applicant named on Respondent
17 City's Notice of Determination, and is therefore served as Real Party in Interest pursuant to
18 Public Resources Code section 21167.6.5(a). On information and belief, Real Party in Interest
19 Highland Fairview represents a conglomeration of interests including HF PROPERTIES, a
20 California general partnership, SUNNYMEAD PROPERTIES, a Delaware general partnership,
21 THEODORE PROPERTIES PARTNERS, a Delaware general partnership, 13451 THEODORE,
22 LLC, a California limited liability company, and HL PROPERTY PARTNERS, a Delaware
23 general partnership (collectively "Highland Fairview" or "Applicant").

24 **STATEMENT OF FACTS AND COMMON ALLEGATIONS**

25 17. *The Project Site and Proposed Project.* The Project site encompasses 3,818 acres
26 of land located in Rancho Belago, the eastern portion of the City of Moreno Valley, and is
27 situated directly south of State Route 60 (SR-60) with the Badlands area to the east and
28 northeast, the Mount Russell Range to the southwest, and Mystic Lake and the San Jacinto

1 Wildlife Area to the southeast. The project site *evaluated* was 3,918 acres, in the same area, but
2 the applicant altered the proposed plan after environmental review with the public and local
3 agencies was completed.

4 18. Of the 3,818 acres, the applicant proposes to develop 40.6 million square feet of
5 buildings devoted to logistics (40.4 million square feet) and "light logistics" (200,000 square
6 feet) on a total of 2610 acres. A General Plan Amendment was approved covering 3,714 acres
7 which redesignates approximately 70 percent of the area for logistics warehousing and the
8 remaining 30 percent for permanent open space and public facilities. The General Plan
9 previously designated the bulk of the site for residential development.

10 19. In addition to the General Plan Amendments and Zoning changes, the Project
11 purported to include and the City Council approved a Tentative Parcel Map covering part of the
12 site. The City claimed that the Tentative Parcel Map was for financing purposes only and that it
13 "would not confer any development rights" on the applicant. Revised DEIR, Executive
14 Summary at 1-9. However, the City entered into a Development Agreement with the applicant
15 which clearly would confer development rights upon the owner. Ordinance No. 901, approving
16 the Development Agreement, was passed by the City and City Council at its August 19, 2015
17 session.

18 20. Because it conferred development rights, the DEIR should have been a project-
19 level document. However, the applicant deferred analysis and mitigation of impacts on a wide
20 range of issues by labeling the document a "programmatic EIR" and promising to do subsequent
21 CEQA analysis later. That promise was ephemeral, as a programmatic EIR only requires further
22 CEQA analysis if "[s]ubstantial changes are proposed in the project which will require *major*
23 *revisions* of the environmental impact report." Pub. Resources Code § 21166(a), CEQA
24 Guidelines § 15162(a)(1) (emphasis supplied). Accordingly, the DEIR and RDEIR deferred
25 analysis until later that should have been accomplished in the DEIR so the public could review it
26 before the City committed to the Project.

27 21. *Jurisdictional Waters*. Among the inadequacies of the DEIR (draft
28 Environmental Impact Report) were its failure to delineate wetlands within the jurisdiction of the

1 U.S. Army Corps of Engineers, the Regional Water Quality Control Board and the California
2 Department of Fish & Wildlife. The DEIR flatly stated that the Project site did not contain any
3 drainages subject to the jurisdiction of the U.S. Army Corps of Engineers and/or Regional Water
4 Quality Control Board, though this was changed in the revised Draft Environmental Impact
5 Report (RDEIR) (hereafter, the revised DEIR will be referred to as the RDEIR, though the Court
6 should not be thereby left with the impression that the RDEIR was recirculated, because it was
7 not). The RDEIR recognized that there are up to five acres of jurisdictional waters subject to the
8 control of the California Department of Fish & Wildlife and that there were two drainages that
9 were subject to the control of the Army Corps of Engineers as hydrologically connected to
10 downstream waters of the United States. The RDEIR *deletes* the conclusion that there are "less
11 than significant impacts" with respect to jurisdictional waters and wetlands. This is a significant
12 impact that was not disclosed in the DEIR and should have required recirculation, but there was
13 none. Including this critical information in the RDEIR which is not circulated for public
14 comment pursuant to CEQA violates the informational purposes of the statute.

15 22. Although the RDEIR contained several new mitigation measures which purport to
16 reduce the impacts to less than significant, both the impacts and their mitigation measures should
17 have been included in the original DEIR so that CEQA could have performed its critical role of
18 advising the public of the potential environmental impacts of the Project and allowing the public
19 to influence the City to change its course of action.

20 23. *The Determination of Biological Equivalent or Superior Preservation.*
21 Additionally, the Western Riverside Multi Species Habitat Conservation Plan ("MSHCP")
22 required the development of a Determination of Biological Equivalent or Superior Preservation
23 ("DBESP") by the Resource Conservation Agency. The applicant did not concede that this
24 analysis was required for the DEIR and it was not prepared until the non-circulated RDEIR was
25 issued. Even then it purported to conduct "program level" review. This represents a potentially
26 significant impact under CEQA that was not evaluated and subject to public comment, in
27 violation of CEQA.

28 24. *GHG Emissions.* The DEIR properly recognized that the greenhouse gas

1 (“GHG”) emissions from the Project would be extensive, significant, and unmitigable, at 37
2 times the significance threshold set by the South Coast Air Quality Management District
3 (“SCAQMD”). The RDEIR used a sleight of hand to conclude that the GHG emissions were
4 less than significant, noting that two negative declarations within the SCAQMD had separated
5 uncapped from capped emissions, and concluding that this was an appropriate methodology for
6 not counting 98% of the emissions from the Project. It is not. The SCAQMD has adopted an
7 Interim CEQA Greenhouse Gas Significance Threshold “that will ultimately contribute to
8 reducing GHG emissions to stabilize climate change” and which relies upon Executive Order S-
9 3-05, which sets a state goal of reducing GHG emissions 80% below 1990 levels by 2050.
10 Additionally, the City’s conclusion that it could rely on the cap in AB 32 to assume that the
11 Project’s emissions would be mitigated to less than significant levels is not based upon
12 substantial evidence because the AB 32 program is set to expire in 2020; when the Project
13 buildout is not projected for completion until 2030.

14 25. *Site Flooding and Stormwater Infrastructure.* Commenters mentioned that the
15 DEIR deferred analysis of the extensive network of stormwater infrastructure that would be
16 necessary to prevent flooding, an existing problem on the site that was likely to get worse with
17 the significant increase in impervious surfaces throughout the site as a result of the Project.
18 Appendix J-1 to the DEIR was significantly rehailed in response, but the document that was
19 circulated to the public was 49 megabytes as opposed to the 172 megabytes of data with the
20 RDEIR. The DEIR failed to describe the existing conditions on the site including the extent of
21 impervious surfaces, so it was impossible to determine whether postdevelopment velocities or
22 volumes would exceed predevelopment conditions as the DEIR claimed. The DEIR did not
23 disclose the existence or location of natural drainage features so it could not disclose significance
24 in compliance with the thresholds of significance it set out – substantial alteration of the existing
25 drainage pattern of the site or area. Further the DEIR’s analysis focused solely on whether post-
26 development stormwater flows would be greater, and it did not analyze impacts or the effect on
27 downstream resources such as the San Jacinto Wildlife Area. Though the RDEIR added
28 information on these issues it was not subject to formal public comment and review as CEQA

1 requires. Moreover, the RDEIR still defers storm water drainage requirements to “future grading
2 and drainage studies” which are expected to result in less than significant impacts – but there is
3 no guarantee of this, and mitigation is deferred to development of “each Plot Plan.” There has
4 simply been inadequate planning regarding flooding and stormwater impacts for the public to
5 review in the DEIR.

6 26. *Lack of a Water Quality Management Plan.* Additionally, the DEIR failed to
7 include a Water Quality Management Plan for the extensive stormwater runoff from the site.
8 The RDEIR purported to address this with a new mitigation measure calling for the development
9 of a Water Quality Management Plan *in the future*, and an Appendix was eventually generated
10 purporting to be a “template” for a Water Quality Management Plan, but it was not circulated.
11 This is contrary to CEQA’s mandate that the public should have the ability to review and
12 comment on the efficacy of proposed mitigation measures.

13 27. *Inadequate Construction Phasing.* Commenters worried that construction
14 phasing and infrastructure improvements were left undefined. The City’s response was to delay
15 the construction period from 10 to 15 years and to identify two phases for construction – but this
16 material should have been available in the DEIR that the public was allowed to comment upon.
17 Moreover the DEIR did not show how the Project drainage improvements would keep pace with
18 the development of construction. Phasing the applicant purported to add in the RDEIR was not
19 subject to public review as required by CEQA. This was a potential significant impact the City
20 ignored.

21 28. *Air Quality Impacts.* Commenters Center for Biological Diversity and the
22 Audubon Society noted that the DEIR needed to analyze the impacts of global warming on the
23 Project – specifically the impacts on air quality. The RDEIR noted that if temperatures reach the
24 mid-warming range there will be a 75% to 85% increase in ozone formation in the Project area,
25 and that this impact is significant and unavoidable. This information was not in the DEIR, which
26 did not analyze impacts of climate change on the Project.

27 29. *Traffic Impacts and Mitigation.* With regard to traffic, the DEIR and RDEIR both
28 concluded that the Project’s impacts would be significant and unavoidable. Yet the City

1 included in the RDEIR a Mitigation Measure that a Traffic Impact Analysis would have to be
2 developed for each Plot Plan to ensure mitigation to a level of “insignificance.” With regard to
3 improvements to traffic infrastructure outside of the City the mitigation measure merely required
4 the payment of traffic impact fees prior to issuance of a certificate of occupancy. The payment
5 of fees will not alone reduce traffic impacts to a level that is less than significant and the City’s
6 conclusion to the contrary was not based on substantial evidence. Moreover, the mitigation
7 measures improperly deferred analysis and mitigation until after Project approval, in violation of
8 CEQA.

9 30. *Land Use Impacts and General Plan Consistency.* The DEIR did not adequately
10 assess the Project’s land use impacts, failing to evaluate its consistency with the City’s General
11 Plan. Inconsistencies with a general plan or local plan designed to protect the environment are
12 significant impacts in and of themselves. The General Plan amendments were not provided in
13 the DEIR so it was impossible to determine their consistency with the remainder of the General
14 Plan, but from what was in the DEIR there were numerous inconsistencies with the General Plan
15 provisions. Moreover, though the DEIR purported to require future environmental review
16 pursuant to Guidelines 15162 and 15177, those provisions only require further review if there are
17 “substantial changes” requiring “major revisions” to an EIR.

18 31. The DEIR lacked fundamental information as to infrastructure, utilities and public
19 services though the General Plan requires that they should keep pace with development. For
20 example, the FEIR stated that a revised Circulation Element had been submitted to the City to
21 deal with traffic impacts, but the revised Circulation Element was not submitted to the public for
22 CEQA review.

23 32. The General Plan requires the City to locate manufacturing and industrial uses to
24 avoid impacts on surrounding land uses and to screen manufacturing and industrial uses where
25 necessary to avoid glare, noise, dust and vibration. General Plan Policies 2.5.2 and 2.5.3. The
26 Project would locate industrial uses next to existing residences and there is no attempt to mitigate
27 the impact to the residences. *See also* General Plan Policy 2.10.11.

28 33. General Plan Policy 6.2.3 requires the City to maximize pervious areas in the

1 City. Nearly 41 million square feet of development plus roads will significantly increase
2 impervious surfaces. Though the FEIR states that a significant portion of the Project will remain
3 pervious for landscaping, water quality treatment and flood detention, this does not mitigate the
4 impacts of the impervious development.

5 34. General Plan Policy 6.2.4 requires the City to design construct and maintain street
6 and storm drain flood control systems to accommodate 10- and 100-year storm flows
7 respectively. The Project is potentially inconsistent as there is no evidence that the storm drain
8 flood control systems will function adequately.

9 35. General Plan Objective 6.5 is to minimize noise impacts from significant noise
10 generators. The Project would be inconsistent as the DEIR recognizes that there would be
11 significant construction and operational noise impacts.

12 36. General Plan Policy 7.7.5 requires development along scenic roadways to be
13 visually attractive and to allow for scenic views of the surrounding mountains and Mystic Lake.
14 The development would be inconsistent: the Project would significantly impact viewsheds in the
15 area including views of the Mt. Russell range, the Badlands, and Mystic Lake. The DEIR claims
16 the buildings would be visually attractive "relative to warehouse space," and that the
17 maintenance of views of Mt. Russell must await specific development proposals that would
18 themselves be subject to future CEQA review. Again, this is deferral of analysis that should
19 have been present in *the DEIR*. Moreover, Mitigation Measure 4.1.6.3A requiring demonstration
20 of 2/3 of the vertical view of Mt. Russell from a height of 6 feet at the edge of the roadway
21 would not represent mitigation to a level of insignificance.

22 37. *Impacts Relating to Population, Housing and Employment.* The DEIR assumed
23 without any evidence to support it that the Project would not cause substantial population growth
24 and that most jobs would go to unemployed City residents. The DEIR omitted information
25 regarding the skills of the local labor force so it was impossible to evaluate whether City
26 residents could fill the new positions. Thus the DEIR lacked support for its conclusion that the
27 Project would improve the City's jobs/housing balance. The RDEIR was modified to correct
28 these assumptions and recognized that the jobs would be filled by those having the skills

1 matching them, likely from surrounding communities, perhaps coming to live in Moreno Valley
2 later. These fundamental assumptions were not addressed in the DEIR that was circulated to the
3 public, however. This violates CEQA.

4 38. *Offsite Improvements.* Commenters noted that the DEIR failed to analyze the
5 impacts of offsite improvements including three new reservoirs. The City responded “specific
6 details of the development, including specific details of the reservoirs and other offsite
7 improvements, cannot be provided at this time since they have not yet been designed.” The
8 DEIR, as potentially the only evaluation of this Project, should have analyzed the offsite
9 improvements, but it did not. The DEIR should have done its infrastructure planning in
10 connection with the DEIR to assure that the planning would succeed. The public was entitled to
11 an analysis of whether the infrastructure planning could accommodate the Project at the density
12 at which it was planned.

13 39. Additionally, geotechnical studies conducted by the applicant call into question
14 whether the reservoirs can effectively be built. Several landslides have been mapped and
15 observed during field review of offsite reservoir A. Appendix G refers to future studies. And
16 the DEIR doesn’t disclose (as does the Appendix) that a planned reservoir access road will go
17 through a mapped landslide as well as potentially unstable San Timoteo formation bedrock for
18 rupture. The DEIR similarly fails to note that water reservoir and access area B will go through
19 a landslide area and unstable bedrock. The Mitigation Measure imposed to “address” this issue
20 merely calls for the City to review and approve plans prior to construction of the offsite
21 improvements.

22 40. *Inadequacy as an Informational Document.* The DEIR failed its purpose as an
23 informational document because it had material “scattered throughout the Appendices,” in
24 violation of established precedent. The subjects on which the DEIR failed to adequately inform
25 the reader include hydrology and traffic. Though the RDEIR attempted to address these failures
26 to some degree, the RDEIR was not the document circulated to the public and its changes were
27 therefore meaningless.

28 41. *CEQA Baselines.* The DEIR also failed to establish proper “baselines” under

1 CEQA. First, with respect to stormwater the DEIR analyzed the Project's impacts against a
2 hypothetical future environment where planned infrastructure had been built. It was not until the
3 RDEIR that the City (1) identified existing hydrological conditions, (2) identified the Project's
4 impacts, and (3) attempted to propose stormwater control features and evaluate them. It was not
5 until the City provided responses to comments on the DEIR that it finally listed existing drainage
6 conditions and identified 6 sub-watersheds the Project would impact. The City still has not
7 identified the precise location of stormwater drains, bioretention areas, detention/infiltration
8 basins and spreading areas, and one of its Mitigation Measures is field investigations to
9 determine the infiltration rate of soils for the proposed basins.

10 42. Second, with respect to hazards and hazardous materials, the applicant did not
11 adequately sample the site for pesticides. The sampling that was conducted was only 52 sites
12 over the past ten years across 2710 acres. The Department of Toxic Substances Control
13 recommends sampling of sites over 50 acres in at least 60 locations, and so a site of this size
14 should have been sampled 60 times across every 50 acre portion. Additionally, the site should
15 have been sampled for DDT and DDE, pesticides that can persist on site for hundreds of years.
16 Though the developer contended that there was no evidence that DDT and DDE were used on
17 the site, there is also no evidence that they were not, and the purpose of testing is to identify and
18 limit hazards to humans and other species on the site and adjacent from a new development that
19 can disperse these dangerous chemicals.

20 43. Moreover, commenters pointed out that the sampling in the past did not cover 2-
21 4-D and 2-ethylhexylester. The applicant responded noting that 2-4-D was used in amounts of
22 almost 1,000 pounds on the site historically. Though the applicant contended that the pesticide
23 has a half-life of a few days to two weeks, testing should have been conducted for a pesticide
24 that was known to have been used so pervasively on the site so as to determine residual levels.

25 44. Additionally, even the limited testing that occurred in the past did not cover the
26 entire Project area. Though the "Phase I ESA" was supposedly amended to include parcels that
27 were ignored in the original ESAs, the letter that reflects the additional surveying is impossible
28 to find in the FEIR Appendices.

1 45. Third, the DEIR failed to establish an accurate baseline for Biological Resources
2 in a number of ways. One, the document failed to identify the value of the Project site to raptors,
3 which it failed to recognize as a significant impact. The RDEIR recognized this as a potentially
4 significant impact and provided as a new mitigation measure for the loss of foraging habitat for
5 the golden eagle and the white tailed kite the payment of an MSHCP fee and the creation of a
6 landscaped buffer area around the San Jacinto Wildlife Area. This did not necessarily address
7 raptors that were not covered by the MSHCP. Moreover, the failure to recognize the impact as
8 significant until after the DEIR was circulated violated CEQA. Two, the burrowing owl surveys
9 in the DEIR were incomplete and failed to adhere to survey protocols. While the RDEIR
10 included a survey that met protocol requirements, that survey disclosed a pair of burrowing owls
11 on the site. Though MSHCP guidance provides that a single pair of burrowing owls does not
12 require mitigation, this does not mean that the presence of the owls, a species of special concern,
13 was not a significant impact requiring mitigation that should have been evaluated in the DEIR
14 that was circulated to the public. Three, trapping surveys were not conducted for the Los
15 Angeles pocket mouse. Though the FEIR claims that surveys were conducted using the protocol
16 for the *Pacific* pocket mouse, this does not necessarily mean that the Los Angeles pocket mouse
17 was even looked for. Four, protocol level plant surveys were not conducted. Though the FEIR
18 claimed that such surveys were only required for areas designated for Narrow Endemic Plant
19 Survey Areas or Cell Criteria Plant Survey Areas, this does not satisfy the applicant's burden
20 under CEQA to search for special status plant species (which may or may not be covered by the
21 MSHCP) on the Project site. Five, the DEIR failed to account for all special status species on the
22 site. The DEIR claimed that the Northwestern San Diego Pocket Mouse had a "low potential" to
23 be on the site but seven were captured in the 2010 trapping surveys and seventeen during the
24 2013 surveys. The RDEIR conceded that "development of selected portions of the WLCSP
25 [World Logistics Center Specific Plan] will have an adverse effect on the San Diego Pocket
26 Mouse." This should have been included in the DEIR that was circulated to the public. The
27 DEIR also failed to mention the presence of the San Diego Desert Woodrat on the site though
28 eight were captured during trapping surveys in 2010. The RDEIR conceded this and that an

1 additional Woodrat was captured in 2013. The RDEIR conceded that "development of selected
2 portions of the WLCSP will have an adverse effect on the San Diego Desert Woodrat." It
3 claimed that the impact would be mitigated by the payment of an MSHCP conservation fee but
4 again, this was a significant impact that should have been disclosed in the DEIR circulated for
5 review by the public. Additionally, the DEIR did not adequately analyze or disclose the
6 potential presence of the American Badger, the Western Yellow Bat, the Bell's Sage Sparrow,
7 and the White Tailed Kite, the Ferruginous Hawk and the Merlin on the site, and adequate
8 surveys were not conducted. The RDEIR did not include sufficient mitigations for these species
9 and those mitigations should have been in the DEIR.

10 46. *Hazards and Hazardous Materials.* The DEIR assumes without analysis that
11 certain setbacks are sufficient from a natural gas compressor station located on the site. The
12 DEIR also failed to address concerns regarding pressurized natural gas lines crossing the site, or
13 concerns regarding a proposed LNG/compressed natural gas fueling station's safety mitigations.
14 In response to comments, the FEIR stated that future review would occur if there were
15 substantial changes under CEQA Guidelines sections 15162 and 15177, but, as noted above,
16 these Guidelines hardly provide assurance that future review will occur. The RDEIR imposes a
17 new Mitigation Measure providing for a risk assessment reports on the subjects of the gas
18 compressor station and the compressed natural gas/LNG fueling station. The risk assessment
19 reports should have been subject to review and analysis by the public with the DEIR. The DEIR
20 should have been recirculated to include it. Instead, they have yet to be developed.

21 47. *Geology and Soils Impacts.* The DEIR asserts that a detailed investigation was
22 performed for the site's faults. However, trenching along a portion of the Claremont segment of
23 the San Jacinto fault located a portion of it but the entire length of it was not trenched. The
24 DEIR finds this impact potentially significant yet it failed to identify the length of the fault *or*
25 *even to require its identification in the future.* The conclusion that impacts would be reduced to
26 a less than significant level is therefore baseless.

27 48. *Light Pollution.* Commenters addressed the level of light pollution the Project
28 would create, noting that it is immediately adjacent to a Wildlife conservation area. The light

1 pollution can cause harm to birds including migratory birds and it can cause predation to the
2 Stephen's Kangaroo Rat – a federally Endangered Species – living adjacent to the site. Yet the
3 responses to comments (known as the FEIR or Final EIR) asserted that these risks would be
4 mitigated to a level of insignificance by Ordinance 851, an ordinance limiting light for human
5 residential purposes. The combination of the Ordinance and the setbacks would *not* reduce the
6 impact of light pollution to various species to a level of insignificance.

7 49. *Failure to Evaluate Impacts in the Face of an Incompletely Functioning MSHCP.*

8 Commenters argued that the DEIR should address the lack of robustness of the MSHCP and
9 hence that the loss of habitat represented by the site may be significant due to the lack of suitable
10 habitat replacement. Additionally, the assumption that the payment of a mitigation fee to the
11 MSHCP would mitigate impacts to noncovered species is baseless. The DEIR and RDEIR failed
12 to analyze what would happen in light of the lack of strength of the MSHCP for covered species.
13 It conceded it failed to analyze impacts to noncovered species but claimed this would happen in
14 further CEQA review. However, as noted above, there is no assurance that further CEQA review
15 will occur.

16 50. *San Jacinto Wildlife Area as a Buffer.* Commenters contended that the DEIR

17 improperly treated the San Jacinto Wildlife Area as a buffer because though the document called
18 for a 400 foot setback there was only a 250 foot buffer which would still allow for water
19 detention basins and landscaping. There was no response on this issue.

20 51. *Hydrological Impacts.* Where a lead agency concludes that one or more

21 mitigation measures will bring an impact from a level of significance to less than that, there must
22 be substantial evidence in the record showing the mitigation measures to be feasible and
23 effective. Mitigation measures must be legally enforceable through permit conditions,
24 agreements or other legally binding instruments. The City failed to meet this standard with
25 respect to the Project's hydrological impacts, where Mitigation Measures 4.9.6.1A and B
26 required future field studies to determine the infiltration rate of soils. Mitigation Measure
27 4.9.6.1B purported to require maintenance of the new drainage systems but did not assign this
28 responsibility to anyone in particular. This is a violation of CEQA.

1 52. *Cumulative Impacts.* The DEIR failed to properly address a variety of cumulative
2 impacts from the Project. First, with respect to stormwater, the DEIR never anticipates how
3 growth in the area predicted by the General Plan will affect various watersheds in the area. In
4 response to comments the FEIR stated that it was “reasonable to assume if each future
5 development must mitigate its own impacts to less than significant and this is monitored by
6 federal and state regulatory agencies, the cumulative impacts to hydrology and water quality will
7 similarly be less than significant.” This is precisely *not* what a cumulative impacts analysis is to
8 entail. Cumulative impacts are impacts that are by their nature individually insignificant but
9 cumulatively considerable.

10 53. Second, the City chose to use the “summary of projections” method rather than
11 the “list” method to evaluate cumulative impacts. The “summary of projections” method relies
12 upon projections in a General Plan or related planning document. Here the City relied upon its
13 2006 General Plan. This approach was not based upon substantial evidence because the City has
14 since amended its General Plan several times, including for this Project, to maximize space
15 available to large warehouse projects.

16 54. Third, the City failed to adequately analyze cumulative impacts to agricultural
17 resources. The City was required to analyze past, present and reasonably foreseeable future
18 projects the impacts of which might compound or interrelate with those of the project at hand,
19 Pub. Resources Code § 21083(b); CEQA Guidelines §§ 15130, 15355. The DEIR focused
20 instead only on past projects. And it failed to mitigate for those cumulative impacts. It claimed
21 those impacts were not significant based on a “revised LESA model,” but that conclusion is not
22 based on substantial evidence.

23 55. Fourth, the City failed to address cumulative air quality impacts. The DEIR
24 conceded that cancer risks and other acute risks come from Diesel Particulate Matter (“DPM”)
25 from the Project and from many other projects, including several major projects which were not
26 included in the City’s calculations. Though the RDEIR purported to recalculate those risks, it
27 did not assess risks from cumulative projects and it still found them present for at least three
28 residences within the Project area (and it did not mitigate for those impacts by providing for air

1 consultation pursuant to Guidelines section 15086. Notice under section 15087 means the
2 agency must provide for a new review period and include a list of significant effects anticipated
3 from the project. Consultation means that the agency must request comment from responsible
4 agencies and trustee agencies as well as any other state, federal or local agencies with
5 jurisdiction over any resource which may be impacted by the Project.

6 63. This, the City failed to do. There was significant new information in the RDEIR
7 on the issues of: air quality impacts (noting that with climate change there would be a 75-85%
8 increase in ozone formation in the Project area), jurisdictional waters (the City's determination of
9 impacts went from insignificant to significant, and a virtually new Appendix was prepared),
10 biological resources (pursuant to the MSHCP a "program level" Determination of Biological
11 Equivalent or Superior Preservation was prepared, but not circulated, and multiple other impacts
12 were identified, but not circulated), hazards and hazardous materials (the DEIR and RDEIR
13 deferred mitigation and assessment of risks from a natural gas compressor station and planned
14 LNG/compressed natural gas filling station) and stormwater (a virtually new appendix was
15 generated, but not circulated, and the applicant promised a yet-to-be-developed Stormwater
16 Pollution Prevention Plan which was not generated; the applicant developed a template for a
17 Water Quality Management Plan with the uncirculated RDEIR – both the SWPPP and the
18 WQMP should have been circulated), among other things.

19 64. The U.S. Fish & Wildlife Service, in commenting on the Project's impacts, said
20 that the document needed to be revised and recirculated to comply with CEQA's mandates. In
21 particular, the agency focused on the jurisdictional waters impacts, the impacts to the burrowing
22 owl, the impacts to the Los Angeles pocket mouse, the impacts to the MSHCP reserve assembly,
23 the impacts to the San Jacinto Wildlife Area, and the obligations of the City and the applicant
24 under the Migratory Bird Treaty Act.

25 **SECOND CAUSE OF ACTION**

26 **Failure to Analyze All Potentially Significant Impacts**

27 **[CEQA, Pub. Res. Code §§ 21000 *et seq.*]**

28 65. Petitioner reincorporates and realleges paragraphs 1 through 64 as if fully set

1 forth.

2 66. The DEIR failed to assess impacts to land use by failing to address the numerous
3 instances where the proposed Project conflicted with the General Plan. Conflicts with a general
4 plan or similar planning document are significant impacts under CEQA.

5 67. The DEIR failed to adequately address significant impacts to jurisdictional waters
6 simply by ignoring them, as noted above. The RDEIR noted that these impacts would be
7 significant, but the RDEIR is not the document circulated for public review.

8 68. The DEIR actually *properly* quantified the impacts of GHG emissions from the
9 Project, but the RDEIR purported to jettison that analysis, contending that the City only had to
10 count emissions uncapped by AB 32. As noted above, this finding was without substantial
11 evidence in the record.

12 69. The DEIR failed to adequately address site flooding and stormwater
13 infrastructure, because it failed to properly characterize existing conditions on the site. As noted
14 above, while the RDEIR added information on these issues, it was not the document subject to
15 public review. Moreover, the RDEIR still defers storm water drainage requirements to future
16 studies. Among other things, it fails to assign the responsibility for cleaning storm drain systems
17 to a particular individual or entity.

18 70. The DEIR improperly concluded that water quality from the storm water leaving
19 the site would be adequate in the absence of a Water Quality Management Plan. Though a
20 "template" plan was generated for the RDEIR, this document was not subject to public review,
21 and does not constitute substantial evidence.

22 71. The DEIR and RDEIR both concluded in the absence of substantial evidence that
23 impacts from lack of infrastructure development would be less than significant. Specifically, as
24 noted above, neither document supported the conclusion that project improvements would keep
25 up with development.

26 72. The City's finding in the RDEIR that it could reduce traffic impacts to a less than
27 significant level were not based on substantial evidence in the record.

28 73. The DEIR failed to quantify significant impacts from indirect source air pollution

1 – specifically, the truck trips that the Project would generate day in and day out. Though the
2 FEIR claimed that the RDEIR quantified these impacts for both a regional and local perspective,
3 the regional analysis was revised and the local analysis was completely redone in the RDEIR.

4 74. The DEIR failed to adequately quantify impacts to biological resources through
5 its lack of adequate baselines as discussed above. It also failed to evaluate impacts to species not
6 covered in the MSHCP, including cumulative impacts to such species. This program-level
7 document should have addressed these impacts.

8 75. The DEIR failed to properly address the jobs/housing imbalance in the City,
9 baselessly assuming that the jobs the Project generated would go to City residents, and that there
10 would be no new housing demand. The RDEIR corrected these assumptions, but this was too
11 late for the public to adequately comment on the Project.

12 76. The DEIR failed to properly address the impacts of offsite improvements
13 including three new reservoirs, as noted above. The DEIR failed to address whether those
14 reservoirs could be effectively built given geotechnical constraints.

15 77. The DEIR failed to establish proper baselines for conducting its review for, *inter*
16 *alia*, (1) stormwater, (2) pesticides on the site, (3) and biological resources, as outlined above.

17 78. The DEIR improperly concluded that the risks to workers and others present on
18 the site from an existing natural gas compressor station and a planned LNG/compressed natural
19 gas filling station would be reduced to less than significant levels by conducting a future risk
20 assessment with regard to each of them. This conclusion was not based on substantial evidence.

21 79. The DEIR concluded that impacts from geology and soils – specifically,
22 earthquakes – would be reduced to a less than significant level even though the applicant failed
23 to trench the length of a known Alquist/Priolo fault. Its conclusion that impacts would be
24 reduced to a less than significant level is thus not based on substantial evidence.

25 **THIRD CAUSE OF ACTION**

26 **Failure to Include All Critical Information in the DEIR**

27 **[CEQA, Pub. Res. Code § 21000 *et seq.*]**

28 80. Petitioner reincorporates and realleges paragraphs 1 through 79 as if fully set

1 forth.

2 81. The DEIR failed to include critical information in the DEIR itself, burying key
3 elements in Appendices in violation of established precedent, in violation of CEQA.

4 **FOURTH CAUSE OF ACTION**

5 **Failure to Adequately Mitigate All Potentially Significant Impacts**

6 **[CEQA, Pub. Res. Code §§ 21000 *et seq.*]**

7 82. Petitioner reincorporates and realleges paragraphs 1 through 81 as if fully set
8 forth.

9 83. CEQA requires an agency to adopt feasible mitigation measures that will
10 substantially lessen or avoid the project's potentially significant impacts and to describe those
11 mitigation measures in the DEIR. Pub. Res. Code §§ 21002, 21081(a), 21100(b)(3); Guidelines
12 § 15126.4. A lead agency may not conclude that an impact is significant and unavoidable
13 without requiring the imposition of all feasible mitigation measures to reduce impacts to less
14 than significant levels. Guidelines §§ 15126.4, 15091.

15 84. The DEIR failed to adequately mitigate for the loss of farmland. The RDEIR
16 provided a new mitigation measure for the loss of "Unique Farmland," but this was only 25 acres
17 of well over 2,000 lost. The majority of the site is designated as "farmland of local importance,"
18 for which there is no mitigation. Even with respect to the 25 acres there are questions as the land
19 that is the subject of the Conservation Easement has apparently not been identified and the form
20 and content of this Easement is to be reviewed by someone identified in the RDEIR only as "the
21 Planning Official."

22 85. The DEIR failed to adequately mitigate for localized construction and operational
23 impacts to the extent feasible. The FEIR considered but failed to incorporate the installation of
24 air filtration systems in the homes of adjacent residents. Though the RDEIR concluded that
25 cancer risks were lower than those originally calculated in the DEIR, the document failed to
26 account for acute risks from exposure such as exacerbated respiratory illnesses and death.
27 Additionally it recognized that (even with its truncated and limited analyses) cancer risks
28 remained for three residences within the Project area yet it failed to provide air filtration for

1 those residents.

2 86. The DEIR failed to adequately mitigate for indirect source air pollution. A
3 commenter raised that the City could have considered the same mitigations as are required under
4 San Joaquin Valley Air Pollution Control District's Rule 9510 regarding indirect sources. The
5 City responded without citation or support that it did not have the same resources with respect to
6 offsite emissions reduction projects.

7 87. The DEIR failed to mitigate adequately for impacts associated with proposed
8 relocation of biological resources. Translocated animals may not survive due to predation.
9 Sensitive plant species don't tend to survive. The burrowing owl require a detailed plan to
10 describe the risks of relocation to a particular area and monitoring. The FEIR dismissed
11 comments on these points, arguing that sensitive plant species were not present on the Project
12 site (even though surveys for them were not adequate), and contending with regard to the
13 burrowing owl that there was enough habitat within the 250 foot buffer area for relocation.
14 These mitigations were not all that was feasible or required to reduce these impacts to a level of
15 insignificance.

16 88. The DEIR failed to mitigate by not providing an adequate buffer of 1,000 feet for
17 sensitive biological receptors. The DEIR stated that a 250 foot setback was adequate even
18 though the California Air Resources Board ("CARB") and the South Coast Air Quality
19 Management District ("SCAQMD") recommend a 1,000 foot setback for humans. This was not
20 changed in the RDEIR. Additionally, the mitigation monitoring plan did not propose to evaluate
21 the buffer to see if the setbacks were adequate.

22 89. The DEIR failed to adequately mitigate for impacts to sensitive plant species.
23 Coulter's goldfields, smooth tarplant and thread-leaved brodiaea have the potential to occur on
24 the Project site and they are required to be avoided 90% under the MSHCP until it is
25 demonstrated that conservation goals for the species are being met. The FEIR responded to this
26 comment by merely dismissing the potential for the species to occur on the site. Other special
27 status species may occur on the site but the DEIR did not contain adequate surveys for them.
28 Salvage and relocation of plants only works 15% of the time. The FEIR promised future CEQA

1 review at the project level for sensitive plant species but it referred to mitigation measure related
2 instead to drainage. It conceded that the Plummer's mariposa lily and the Parry's spineflower
3 would require 90% avoidance but did not indicate how the Project would accomplish this.

4 90. The DEIR and FEIR failed to adequately mitigate for the burrowing owl. In
5 addition to the translocation concerns addressed above, the DEIR only provided for a single
6 preconstruction survey 30 days prior to ground disturbance. CDFW guidance calls for a
7 preconstruction survey 14 days prior and then 24 hours prior to ground disturbance. The FEIR
8 rejected this comment, claiming that the MSHCP only requires the single survey 30 days prior.
9 The state has the authority to impose additional conditions and the City should have imposed
10 them to mitigate impacts to the owl to less than significant levels.

11 91. Additionally, exclusion of burrowing owl is not permitted unless and until the
12 applicant (1) develops a burrowing owl exclusion plan approved by CDFW, (2) secures offsite
13 habitat and constructs artificial burrows within 100 meters of the eviction sites, (3) mitigates the
14 impacts of exclusion according to CDFW methods, (4) conducts site monitoring of the exclusion
15 sites, and (5) documents the burrowing owl using artificial or natural burrows on an adjoining
16 mitigation site. The City did not respond to these points in the FEIR, and apparently did not
17 adopt this required mitigation, and did not even explain whether the mitigation would be possible
18 on the site.

19 92. The applicant failed to develop, and the City failed to insist upon, a Storm Water
20 Pollution Prevention Plan ("SWPPP") to deal with the likely presence of toxins including
21 organochlorine pesticides. The SWPPP was deferred into the future where there would be no
22 public scrutiny. This is not adequate mitigation under CEQA.

23 93. The FEIR conceded that the DEIR had failed to evaluate or mitigate for impacts
24 to species not covered by the MSHCP. Impacts to those species and mitigation for them should
25 have occurred in this document.

26 94. The DEIR and FEIR failed to mitigate adequately for the risks posed by the
27 adjacent gas compressor station and the planned compressed natural gas/LNG fueling station on
28 the site though it recognized that these facilities could provide risks of severe explosions and

1 fires. The RDEIR merely deferred the issue to future “risk assessments” with promised future
2 CEQA review, though there is no guarantee that this would happen.

3 95. The City failed to adequately mitigate for traffic. Its mitigation measure requiring
4 the payment of fees prior to issuance of a certificate of occupancy will *not* reduce traffic impacts
5 outside the City to a level of insignificance.

6 **FIFTH CAUSE OF ACTION**

7 **Inadequate Cumulative Impacts Analysis**

8 **[CEQA, Pub. Res. Code §§ 21000 *et seq.*]**

9 96. Petitioner reincorporates and realleges paragraphs 1 through 95 as if fully set
10 forth.

11 97. As discussed above the cumulative impacts analysis failed to comport with
12 CEQA’s requirements because the City used the “summary of projections” method without
13 having accurate summaries of projections.

14 98. Specifically, the City failed to account for cumulative warehouse projects the City
15 had in the planning or implementation phases that were not included in its 2006 General Plan.

16 99. Additionally the City failed to accurately assess cumulative impacts from
17 stormwater and flooding in the area by assuming that each project would reduce such impacts to
18 a level of insignificance so that cumulative impacts would be insignificant.

19 100. Next, the City failed to adequately assess impacts to agricultural resources,
20 assessing only impacts from *past* cumulative projects and not *past, present, and reasonably*
21 *foreseeable future* projects as the statute and Guidelines require. Pub. Resources Code §
22 21083(b); CEQA Guidelines §§ 15130, 15355.

23 101. Finally, the City did not properly assess cumulative impacts to air quality,
24 including from the additional warehouse projects in the area.

25 102. For all these reasons, the cumulative impacts analysis did not comport with
26 CEQA’s requirements.

27 **SIXTH CAUSE OF ACTION**

28 **Inadequate Alternatives Analysis and Failure to Adopt a Feasible Environmentally**

1 **Superior Alternative**

2 **[CEQA, Pub. Res. Code §§ 21000 *et seq.*]**

3 103. Petitioner reincorporates and realleges paragraphs 1 through 102 as if fully set
4 forth.

5 104. CEQA requires that an EIR consider a “reasonable range of alternatives,”
6 Guidelines § 15126.6(a), and that the document must include a discussion of alternatives even if
7 to some degree they would limit accomplishment of the project’s objectives, or would be more
8 costly. Guidelines § 15126.6(b).

9 105. Here the City failed to consider a “reasonable range” of alternatives, focusing so
10 tightly on the project as it was currently defined that no alternative site or sites could meet the
11 City’s objectives.

12 106. Additionally the City failed to identify alternatives that lessened the Project’s
13 impacts. The CEQA Guidelines mandate that “The range of potential alternatives to the
14 proposed project shall include those that could feasibly accomplish most of the basic objectives
15 of the project and could avoid or substantially lessen one or more of the significant effects.”
16 Guidelines § 15126.6(c).

17 107. Finally, the City failed to adopt the environmentally superior alternative,
18 Alternative 1, despite the mandate that the City is to adopt feasible alternatives or mitigation
19 measures that substantially lessen significant effects of the project. *See* Pub. Res. Code § 21002.
20 This finding was not based on substantial evidence.

21 108. For all of these reasons, the City’s alternatives analysis and adoption of the
22 Project instead of Alternative 1 did not comport with CEQA’s requirements.

23 **SEVENTH CAUSE OF ACTION**

24 **Statement of Overriding Considerations Not Based on Substantial Evidence**

25 **[CEQA, Pub. Res. Code § 21000 *et seq.*]**

26 109. Petitioner reincorporates and realleges paragraphs 1 through 108 as if fully set
27 forth.

28 110. CEQA requires that an agency must adopt a “statement of overriding

1 considerations” for any significant effects which have not been mitigated to a level of
2 insignificance by mitigation measures or the adoption of alternatives. The agency must find
3 “that specific overriding economic, legal, social, technological, or other benefits of the project
4 outweigh the significant effects on the environment.” Pub. Res. Code § 21081(b).

5 111. The statement of overriding considerations must be based on substantial evidence
6 in the record. Pub. Res. Code § 21081.5; Guidelines § 15093(b).

7 112. The City adopted the statement of overriding considerations when feasible
8 mitigation measures and project alternatives existed, in violation of CEQA. Pub. Res. Code §
9 21081; Guidelines § 15092.

10 EIGHTH CAUSE OF ACTION

11 Violations of the State Planning and Zoning Law and Moreno Valley Municipal Code

12 [Gov. Code §§ 65300 *et seq.*]

13 113. Petitioner reincorporates and realleges paragraphs 1 through 112 as if fully set
14 forth.

15 114. Government Code sections 65300 *et seq.* requires that all development projects
16 must be consistent with the adopted General Plan of the City.

17 115. Moreno Valley Municipal Code section 9.01.080 likewise requires consistency
18 with the City’s General Plan.

19 116. Commenters contended that the proposed Project is inconsistent with the City’s
20 General Plan. Even the amendments to the General Plan do not make the Project consistent.

21 117. Moreover, those amendments make the General Plan internally inconsistent.

22 118. The City’s findings that the Project is consistent with the General Plan are
23 unsupported by substantial evidence.

24 119. By approving the Project when it is inconsistent with the General Plan and by
25 making findings of consistency which are unsupported by substantial evidence, the City
26 committed prejudicial abuses of discretion for which the Project approvals must be set aside.

27 WHEREFORE, Petitioner prays

28 1. For the Court’s peremptory writ of mandate requiring the City to set aside its

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decision certifying the EIR for the Project (Pub. Res. Code §§ 21168, 21168.5, 21168.9, Code of Civil Procedure §§ 1085, 1094.5),

2. For the Court's peremptory writ of mandate requiring the City to fully comply with the requirements of CEQA, the State Planning and Zoning Law, and the City's Municipal Code prior to any future approval of the Project (Pub. Res. Code §§ 21168, 21168.5, 21168.9, Gov. Code § 65300 *et seq.*, Code of Civil Procedure §§ 1085, 1094.5),
3. For a judgment enforcing the duty imposed upon the City by CEQA to adequately address potential individual and cumulative impacts to the environment in any subsequent action taken regarding the Project,
4. For a judgment enforcing the duty imposed upon the City by CEQA to adequately consider mitigation to reduce significant impacts in any subsequent action taken to approve the Project,
5. For a judgment enforcing the duty imposed upon the City by CEQA to adopt a feasible environmentally superior alternative to reduce significant impacts in any subsequent action taken to approve the Project,
6. For a judgment requiring the City to prepare, circulate and consider a new and legally adequate Environmental Impact Report and otherwise comply with CEQA in any subsequent action taken to approve this Project,
7. For costs of suit, including attorney's fees pursuant to Code of Civil Procedure § 1021.5 and other provisions of law.
8. For such other and further relief, including a stay or preliminary or permanent injunctive relief, in the event that the Real Party in Interest, or its agents or instrumentalities, intend to commence construction on the site.

Dated: September __, 2015

BLUM COLLINS, LLP
Craig M. Collins
Gary Ho

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By 
Craig Collins
Attorneys for Plaintiffs

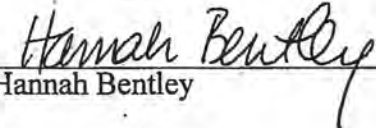
VERIFICATION

I am an attorney representing Petitioner SoCal Environmental Justice Alliance in this action, and I am authorized to make this verification on their behalf under California Code of Civil Procedure § 446.

I have read the foregoing PETITION FOR WRIT OF MANDATE and know the contents thereof. I certify that I believe the contents thereof to be true.

I am making this verification in place of Petitioner on the grounds that the facts are within my knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 16th day of September, 2015, at Los Angeles, California.


Hannah Bentley

City Attorney

SUMMONS 15 SEP 24 PM 2:22
(CITACION JUDICIAL)

SUM-100

NOTICE TO DEFENDANT: CITY OF MORENO VALLEY; and DOES 1-10, (AVISO AL DEMANDADO): inclusive, Respondents; HF PROPERTIES, a California general partnership, SUNNYMEAD PROPERTIES, a Delaware general partnership; THEODORE PROPERTIES PARTNERS, a Delaware general partnership; 13451 THEODORE, LLC, a California limited liability company; HL PROPERTY PARTNERS, a Delaware general partnership; HIGHLAND FAIRVIEW OPERATING CO., a general partnership and ROES 11-20, inclusive, Real Parties in Interest

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT, an air quality management district

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE
SEP 18 2015
L. VILLANUEVA

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumple con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of the State of California
County of Riverside
4050 Main Street
Riverside, CA 92501

CASE NUMBER:
(Número de caso) **RIC 1511213**

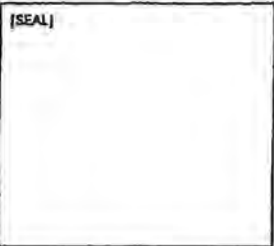
The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Bradley R. Hogin - SBN 140372 (714) 558-7000 (714) 835-7787
Ricia R. Hager - SBN 234052
Woodruff, Spradlin & Smart; 555 Anton Blvd., Suite 1200
Santa Ana, CA 92626

DATE: **SEP 18 2015** Clerk, by **L. VILLANUEVA**, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify): **City of Moreno valley**
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify): **416.50**
- by personal delivery on (date): **9-24-15** **(Public Entity)**



CITY CLERK
MURENO VALLEY
SEP 15 2015

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

15 SEP 24 PM 2: 22

NOTICE OF DEPARTMENT ASSIGNMENT

CASE NO. RIC1511213

vs

TO:

This case has been assigned to the HONORABLE Judge Craig G. Riemer in Department 05 for all purposes.

Department 5 is located at 4050 Main Street, Riverside, CA 92501.

Any disqualification pursuant to CCP section 170.6 shall be filed in accordance with that section.

The filing party shall serve a copy of this notice on all parties.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See California Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing NOTICE on this date, by depositing said copy as stated above.

Court Executive Officer/Clerk

Date: 09/18/15

by:  _____

LOURDES VILLANUEVA, Deputy Clerk

COPY

Fee Exempt Per Gov. Code § 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

L. VILLANUEVA

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12 Attorneys for Petitioner South Coast
Air Quality Management District

13
14 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

15 IN AND FOR THE COUNTY OF RIVERSIDE

16 SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT, an air quality
17 management district,

18 Petitioner,

19 v.

20 CITY OF MORENO VALLEY; and DOES
1-10, inclusive,

21 Respondents.

22 HF PROPERTIES, a California general
23 partnership, SUNNYMEAD PROPERTIES,
a Delaware general partnership; THEODORE
24 PROPERTIES PARTNERS, a Delaware
general partnership; 13451 THEODORE,
25 LLC, a California limited liability company;
HL PROPERTY PARTNERS, a Delaware
26 general partnership; HIGHLAND
FAIRVIEW OPERATING CO., a general
27 partnership and ROES 11-20, inclusive,

28 Real Parties in Interest.

CASE NO.: **RIC 1511213**

**PETITION FOR WRIT OF
MANDATE; REQUEST FOR
INJUNCTIVE RELIEF**

**[California Environmental Quality Act,
Public Resources Code §§ 21168,
21168.5; Code of Civil Procedure §§ 526,
527, 1085, 1094.5; Civil Code § 3422]**

WOODRUFF, SPRADLIN
& SMART
ATTORNEYS AT LAW
COSTA MESA

1 The South Coast Air Quality Management District (the "District") respectfully
2 petitions this Court for a Writ of Mandate directed to the City of Moreno Valley ("City").
3 The District alleges as follows:

4 NATURE OF THE CASE

5 1. This Petition challenges action taken by the City in approving the World
6 Logistics Center Project ("Project") and approving the World Logistics Center Programmatic
7 Environmental Impact Report, State Clearinghouse No. 2012021045 ("Program EIR"). The
8 City prepared and approved the Program EIR in purported compliance with the California
9 Environmental Quality Act, Public Resources Code Sections 21000, *et seq.* ("CEQA").

10 2. The City approved the Project and certified the Program EIR on August 19,
11 2015. The Project and the Program EIR are described in the City's Notices of Determination
12 filed with the County Clerk on August 20, 2015 and August 26, 2015. True copies of the
13 Notices of Determination are attached hereto as Exhibit "A."

14 3. The City's decisions to certify the Program EIR and approve the Project were
15 unlawful because the City failed to (i) consider adequately the Project's potential adverse
16 environmental impacts; (ii) consider adequately and/or adopt feasible mitigation measures to
17 reduce or avoid significant impacts; (iii) adopt an adequate mitigation reporting or
18 monitoring program; (iv) adequately consider or adopt feasible alternatives; (v) adequately
19 respond in writing to significant points raised during the environmental review process; or
20 (vi) adopt legally sufficient findings of approval for the Project.

21 PARTIES

22 4. The District is an air quality management district organized and existing under
23 Chapter 5.5 of Part 3, Division 26 of the California Health & Safety Code, Sections 40440 *et*
24 *seq.*

25 5. The City is a municipal corporation organized under the laws of the State of
26 California. The City exercises land use authority within its jurisdiction. The City has the
27 authority to, among other things, adopt and amend its general plan, adopt and amend specific
28 plans, adopt zoning requirements, issue land use permits, and enter into development

1 agreements.

2 JURISDICTION AND VENUE

3 6. This Court has jurisdiction to issue a peremptory writ of mandate under either
4 (i) Code of Civil Procedure section 1094.5 and Public Resources Code section 21168, or
5 (ii) Code of Civil Procedure section 1085 and Public Resources Code section 21168.5.

6 7. Venue is proper in this court because the cause of action arose in Riverside
7 County. The Project is located in Riverside County, and will have adverse environmental
8 impacts in Riverside County, among other places.

9 STANDING

10 8. The District has standing to assert the claims raised in this Petition. As
11 explained below, the District plays a key role in implementing both the federal Clean Air Act
12 (“Federal Act”) (42 U.S.C. sections 7401 *et seq.*) and the California Clean Air Act
13 (“California Act”) (codified in Stats. 1988, ch. 1568) within the “South Coast Air Basin”
14 (“South Coast Basin” or “Basin”). Thus, the District is beneficially interested in this matter
15 and will be harmed by implementation of the Project. The District also has “public interest
16 standing” insofar as it seeks, through this litigation, to obtain the enforcement of laws
17 enacted for the public interest. (*See, Save the Plastic Bag Coalition v. City of Manhattan*
18 *Beach* (2011) 52 Cal.4th 155, 166.)

19 GENERAL ALLEGATIONS

20 The District’s Role in Protecting Air Quality

21 9. The Federal Act is designed to attain compliance with the National Ambient
22 Air Quality Standards (“NAAQS”). (42 U.S.C. § 7409.) The U.S. Environmental Protection
23 Agency (“EPA”) has adopted NAAQS for certain “criteria” pollutants. (40 C.F.R. Part 50.)
24 For planning purposes, EPA has divided the country into separate “air quality control
25 regions.” (42 U.S.C. § 7407; 40 C.F.R. Part 81.) EPA must determine whether each air
26 quality region is “attainment” or “nonattainment” of the NAAQS for each criteria pollutant.
27 (42 U.S.C. § 7407(d)(4); 42 U.S.C. § 7501(2).) Once a region is designated nonattainment,
28 the Federal Act requires states to prepare a “state implementation plan” (“SIP”). (42 U.S.C.

1 § 7410.) Each SIP must provide for (1) "implementation of all reasonably available control
2 measures as expeditiously as practicable," and (2) the attainment of the NAAQS. EPA must
3 review and approve each proposed SIP. (42 U.S.C. § 7410(a)(1).)

4 10. The California Act sets forth a parallel state program administered by the
5 California Air Resources Board ("CARB"). The California Act is designed to attain
6 compliance with the California Ambient Air Quality Standards ("CAAQS") within specified
7 "air quality basins." (Health & Saf. Code § 39606.) For the most part, CARB's air quality
8 basins have the same boundaries as EPA's air quality control regions. Like EPA under the
9 Federal Act, CARB must determine whether each air quality basin is attainment or
10 nonattainment of the CAAQS for each criteria pollutant. (Health & Saf. Code § 39608.) An
11 "attainment plan" must be prepared for each nonattainment region. (Health & Saf. Code §
12 40911.) Like federal SIPs, attainment plans must demonstrate how nonattainment basins
13 will achieve and maintain the CAAQS. (Health & Saf. Code § 40913.) CARB must review
14 and approve each attainment plan. (Health & Saf. Code § 40911.)

15 11. The South Coast Air Basin is both an air quality control region under the
16 Federal Act and an air quality basin under the California Act. The Basin consists of the
17 urban portions of Los Angeles, Riverside, and San Bernardino counties, and all of Orange
18 County. (40 C.F.R. § 81.305; Health & Saf. Code § 40410.) The District is the designated
19 air quality management district for the Basin. (Health & Saf. Code § 40412.) Thus, the
20 District is responsible for preparing the Basin's "Air Quality Management Plan" ("AQMP").
21 (Health & Saf. Code § 40408.) The AQMP serves as both the SIP under the Federal Act and
22 the attainment plan under the California Act for the Basin. (Health & Saf. Code § 40460.)
23 The AQMP sets forth a variety of general "control measures" designed to attain and maintain
24 the NAAQS and the CAAQS within the Basin. (Health & Saf. Code § 40913.)

25 12. The Basin is currently designated nonattainment for ozone, PM₁₀, and PM_{2.5}.
26 (40 C.F.R. § 81.305.) Ozone is a "criteria" pollutant formed when volatile organic
27 compounds ("VOCs"), also known as reactive organic gases ("ROG"), react with nitrogen
28 oxides ("NOx") in the atmosphere in the presence of sunlight. Ozone adversely affects

1 human health, and is a key ingredient in the formation of urban smog. VOCs and NOx also
2 contribute to the formation of PM₁₀ and PM_{2.5}.

3 13. The Basin exceeds the federal ozone standard far more frequently than any
4 other area in the United States. The Basin must reduce NOx beyond existing regulations by
5 up to 65%, about 150 tons per day, in order to meet the federal 8-hour ozone attainment
6 deadline in 2023, and up to 75% by 2032.

7 14. NOx also contributes to the formation of PM_{2.5}. Due to their microscopic size,
8 PM_{2.5} particles penetrate deeply into one's lungs, causing physical damage to the lung's
9 aveoli while exposing them to toxic substances the particles may carry. As with ozone,
10 sensitive persons, including children, are particularly at risk from increasing levels of PM_{2.5}
11 which has also been linked to increasing mortality. The Basin is required to achieve the
12 annual average NAAQS for PM_{2.5} by 2015, and is seeking approval from the EPA to extend
13 its deadline for achieving the 24-hour PM_{2.5} standard.

14 15. Achieving the NAAQS in the Basin has proven to be a very difficult task, for
15 two key reasons. First, the Basin has a very large population – almost half the population of
16 the state of California lives within its boundaries. As a result, the Basin contains millions of
17 cars and stationary sources that generate air pollutants on a daily basis. (*Cf.* Cal. Health &
18 Safety Code § 40402.) Second, the Basin has a unique meteorology that is highly conducive
19 to the formation of ozone. The Basin is surrounded by mountains to the east and the ocean
20 to the west. In the morning, the winds generally travel from the ocean towards the
21 mountains, carrying NOx and VOCs with it. The eastern mountains trap the pollutants,
22 containing them in the Basin. Sunlight heats the ambient air and creates an “inversion layer”
23 – a layer of air hotter than the layer below – that traps the pollutants vertically. NOx and
24 VOCs react in the sunlight to form ozone, which is often trapped in the Basin.

25 16. If the Basin does not achieve the NAAQS for ozone and PM_{2.5} by the
26 applicable deadlines, the region will continue to experience poor air quality and the resulting
27 health impacts, including lung damage and premature deaths. In addition, EPA will impose
28 federally mandated sanctions, resulting in higher operating costs for businesses with air

1 permits and loss of federal transportation funding.

2 The Project

3 17. The Project is a master planned business park designed to support the logistics
4 operations of large global companies. The Project covers 3,818 acres in the City's Rancho
5 Belago area. The Project involves 40.6 million square feet of development, including
6 warehouse space and related facilities. This amount of development represents almost ten
7 percent of the total new warehousing space projected to be built in the Basin by 2035.

8 18. In connection with the Project, the City Council approved a general plan
9 amendment, the World Logistics Center Specific Plan, a development agreement, and other
10 approvals identified in the Notices of Determination attached hereto as Exhibit "A." The
11 Specific Plan sets forth zoning designations, a land use plan, planning area designations,
12 design guidelines, landscaping guidelines, and development standards for the Project area.

13 19. At full build-out, the Project will generate 14,006 truck trips per day travelling
14 to and from the business park facilities. These truck trips will generate an enormous amount
15 of air pollution – as much as three-quarters of a ton per day of NOx. The air emissions
16 grossly exceed the applicable threshold of significance, with is 55 pounds per day of NOx.

17 20. The operation of the Project will also contribute greenhouse gas emissions by
18 adding 400,000 metric tons of CO₂e per year, of which 270,000 metric tons is caused by
19 mobile sources and 100,000 metric tons is caused by electricity usage. These greenhouse gas
20 emissions are substantially greater than the SCAQMD threshold of significance of 10,000
21 metric tons per year.

22 Exhaustion of Remedies

23 21. The District has exhausted all applicable administrative remedies in
24 compliance with Public Resources Code Section 21177. The District and other persons
25 submitted numerous written comments to the City in opposition to the Project setting forth
26 the grounds alleged in this petition. District representatives also presented oral testimony at
27 public hearings.

28

1 the environmental consequences of a proposed activity, so that ways of avoiding
2 environmental damage can be identified. The Program EIR failed to fully inform the City
3 and the public of the environmental consequences of the Project.

4 30. CEQA and the CEQA Guidelines require that an EIR identify and focus on the
5 significant environmental effects of the proposed project. (Code Cal. Regs., tit. 14, §
6 15126(a).) The Program EIR failed to comply with CEQA by failing to identify and analyze
7 adequately the Project's potential significant environmental impacts, including, but not
8 limited to, impacts in the areas of air quality and climate change.

9 31. Under CEQA, a discussion of significant adverse environmental impacts must
10 be sufficiently detailed so as to fully inform the decision makers and the public of the
11 project's impacts. The Program EIR failed to discuss the Project's adverse environmental
12 impacts, including but not limited to air quality and climate change impacts, in sufficient
13 detail as required by CEQA.

14 32. The CEQA Guidelines provide that a project will normally have a significant
15 effect on the environment if it will expose sensitive receptors to substantial pollutant
16 concentrations. (Code Cal. Regs., tit. 14, Appendix G, § III(d).) Residents within and near
17 the Project area are "sensitive receptors" within the meaning of this provision. The Program
18 EIR failed to identify, adequately consider, and/or mitigate the impacts of the Project on
19 these sensitive receptors as required by CEQA, including but not limited to the impacts of
20 toxic air pollutants. Without limiting the foregoing, the Program EIR incorrectly concluded
21 that "new technology diesel exhaust does not cause cancer." This conclusion was based on a
22 misinterpretation of a single study published by the Health Effects Institute.

23 33. Under CEQA, a lead agency approving a project for which an EIR has been
24 prepared which identifies one or more significant effects must make specified findings
25 supported by substantial evidence in the record. (Public Resources Code §§ 21081,
26 21081.5.) In approving the EIR, the City failed to comply with this requirement by making
27 appropriate findings supported by substantial evidence in the record. The City's findings
28 were legally deficient as to, among other matters, air quality and climate change impacts.

1 34. Under CEQA, an EIR must contain a detailed discussion of alternatives to the
2 proposed project. (Public Resources Code § 21100(d); Code Cal. Regs., tit. 14, § 15126(d).)
3 The Program EIR failed to comply with this requirement by failing to identify an adequate
4 range of alternatives to the Project that would reduce or avoid the Project's significant
5 impacts including, but not limited to, the Project's impacts on air quality and climate change.
6 The Project also failed to analyze adequately those alternatives that were identified.

7 35. Under CEQA, a lead agency must identify and adopt mitigation measures that
8 will reduce or avoid a project's significant environmental effects. (Public Resources Code §
9 21100(c).) A lead agency must also respond to specific suggestions for mitigating a
10 significant environmental impact unless the suggested mitigation is facially infeasible. (*Los*
11 *Angeles Unified School District v. City of Los Angeles* (1997) 58 Cal.App.4th 1019.) The
12 City here failed to identify and adopt feasible mitigation measures, and failed to respond
13 adequately to facially feasible suggestions for mitigation measures. Without limiting the
14 foregoing, the City failed to respond adequately to the District's suggestions for mitigation
15 measures that would reduce or avoid (i) significant air quality impacts based on diesel truck
16 emissions, and (ii) significant climate change impacts based on the emission of greenhouse
17 gases.

18 36. The District urged the City to consider and adopt a number of specific
19 mitigation measures that would reduce Project-related diesel truck emissions including,
20 among others, the following: (i) a requirement that the Project implement new truck and
21 infrastructure technologies based on periodic and frequent technology/feasibility reviews as
22 individual buildings are leased or sold or City approvals are issued; (ii) Project-wide or
23 building-specific emissions caps that decline through time that are linked to the development
24 of engine technologies; (iii) a requirement that building tenants apply in good faith for
25 incentive funding assistance to replace and retrofit older trucks, similar to the SCAQMD
26 Surplus Off-road Option for NOx program for owners of off-road vehicles; and (iv) a legally
27 enforceable requirement that trucks serving a particular Project building comply with the
28 more stringent of the EPA or CARB engine emission standards in effect at the time the

1 building is leased or sold.

2 37. CEQA and the CEQA Guidelines require that public agencies act so as to give
3 the fullest possible protection to the environment. (Code Cal. Regs., tit. 14, § 15003.) In
4 adopting the legally defective Program EIR, the City failed to comply with this policy and
5 provision of CEQA and the regulations.

6 38. The Program EIR failed to properly identify, describe, evaluate, and mitigate
7 the Project's cumulative effects including, but not limited to, the Project's cumulative
8 adverse impacts on air quality and climate change.

9 RELIEF REQUESTED

10 39. The District incorporates by reference the allegations of paragraphs 1 through
11 38 above as though fully set forth herein.

12 Writ of Mandate

13 (Pub. Res. Code §§ 21168, 21168.5; Code of Civ. Pro. §§ 1085, 1094.5)

14 40. Under Public Resources Code section 21168, suits alleging noncompliance
15 with CEQA shall proceed in accordance with section 1094.5 of the Code of Civil Procedure
16 if "by law a hearing is required to be given, evidence is required to be taken and discretion in
17 the determination of the facts is vested in a public agency." Under Section 21168, actions
18 taken by public agencies must be "supported by substantial evidence in light of the whole
19 record."

20 41. Public Resources Code section 21168.5 establishes a different standard of
21 review for CEQA challenges which are not governed by section 21168. Under Section
22 21168.5, actions taken by public agencies will be invalidated if they constitute "prejudicial
23 abuse of discretion." Actions under Section 21168.5 properly proceed under Code of Civil
24 Procedure section 1085, which provides that a writ of mandate "may be issued by any court"
25 in order to "compel the performance of an act which the law specially enjoins" The
26 City is an "inferior tribunal, corporation or board" within the meaning of Section 1085.

27 42. The City has violated a duty which the law specially enjoins, and the District
28 has a clear, present and substantial right to the performance of the City's duty.

1 attainment for all criteria pollutants by the applicable deadlines, and thereby fulfill its
2 mandate under the Federal and California Clean Air Acts.

3 49. Pecuniary compensation would not afford adequate relief to the environment,
4 the District, or the public.

5 50. If the Project is allowed to proceed, any judgment in the District's favor would
6 be ineffectual – significant damage to human health and the environment will have already
7 occurred.

8 Attorneys' Fees and Costs

9 51. With this Petition, the District seeks to enforce an important right affecting the
10 public interest. If the lawsuit is successful, the District will confer a substantial benefit on
11 the region and its residents. Thus, the District will be entitled to an award of reasonable
12 attorneys' fees pursuant to section 1021.5 of the Code of Civil Procedure.

13 PRAAYER FOR RELIEF

14 WHEREFORE, the District prays that this court:

- 15 1. Issue a peremptory writ of mandate:
- 16 a. Voiding the City's action in approving the Project and certifying the EIR;
- 17 b. Directing the City to rescind, vacate, and set aside the City's approval of
- 18 the Project, certification of the Program EIR, adoption of CEQA findings,
- 19 and issuance of Notices of Determination;
- 20 c. Directing the City to suspend immediately all activity in furtherance or
- 21 implementation of the Project;
- 22 d. Directing the City to prepare a revised draft environmental impact report,
- 23 consistent with the requirements of CEQA, before taking any further action
- 24 on the Project;
- 25 e. Directing the City to take all actions necessary to comply with CEQA in
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connection with the Project.

2. Issue a temporary restraining order, preliminary injunction, and permanent injunction restraining the City and the Real Parties in Interest from taking any action in furtherance of the Project while the litigation is pending.

3. Award the District its costs of suit incurred and reasonable attorneys' fees including, but not limited to, fees authorized under Code of Civil Procedure §§ 1021.5, 1032 and Government Code § 800.


4. Retain jurisdiction over the City's proceedings by way of a return to the peremptory writ until the court has determined that the City has complied with CEQA.

5. Award such other relief as the court may deem just and proper.

DATED: September 18, 2015

Respectfully submitted,

WOODRUFF, SPRADLIN & SMART, APC



BRADLEY R. HOGAN
RICIA R. HAGER
Attorneys for Petitioner South Coast
Air Quality Management District

EXHIBIT "A"

NOTICE OF DETERMINATION

To:

 x Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA. 95814

 x County Clerk
P.O. Box 751
Riverside, CA 92502-0751

From:

City of Moreno Valley
Community & Economic Development Dept.
14177 Frederick Street
Moreno Valley, CA. 92552-0805

Subject:

Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Applicant Name: Highland Fairview
Address: 14225 Corporate Way, Moreno Valley, CA 92553
Telephone Number: (951) 867-5300

Project Title: A General Plan Amendment (PA12-0010), Development Agreement (PA12-0011), Change of Zone (PA12-0012), Specific Plan (PA12-0013), Annexation (PA12-0014), Tentative Parcel Map No. 36457 (PA12-0015) and an Environmental Impact Report (P12-016) for a project known as the World Logistics Center (WLC) Project.

<u>2012021045</u> State Clearinghouse No. <small>(if submitted to Clearinghouse)</small>	<u>Mark Gross</u> Lead Agency Contact Person	<u>(951) 413-3215</u> Area Code/ Telephone
--	--	--

Project Location: The project site is located in the eastern portion of the city and is more specifically located east of Redlands Boulevard, south of the SR-60 Freeway, west of Gilman Springs Road, and north of the San Jacinto Wildlife Area.

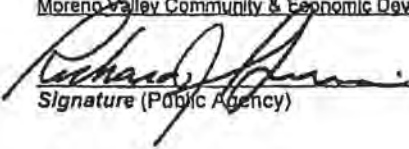
Project Description The project includes a General Plan Amendment (PA12-0010), Development Agreement (PA12-0011), Change of Zone (PA12-0012), Specific Plan (PA12-0013), Annexation (PA12-0014), Tentative Parcel Map No. 36457 (PA12-0015) and an Environmental Impact Report (P12-016) for a project known as the World Logistics Center (WLC) involving approximately 3,818 acres of property and project area, including 2,610 acres designated for the World Logistics Center Specific Plan. The project also results in the repeal of the current Moreno Highlands Specific Plan No. 212-1.

This is to advise that the City Council of the City of Moreno Valley has approved the above-described project on August 19, 2015, and has made the following determinations regarding the above described project:

1. The project [x will ___ will not] have a significant effect on the environment.
2. x An Environmental Impact Report was prepared for this project pursuant to provisions of CEQA.
____ Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [x were ___ were not] made a condition of the approval of the project.
4. A Statement of Overriding Considerations [x was ___ was not] adopted for this project.
5. Findings [x were ___ were not] made pursuant to the provisions of CEQA.

This is to certify that the [___ Negative Declaration x Final EIR with comments and responses and record of project approval] is available to the General Public at:

Moreno Valley Community & Economic Development Department, 14177


Signature (Public Agency)

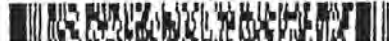
8/20/15
Date

F I L E D / P O S T E D

County of Riverside
Peter Aldana
Assessor-County Clerk-Recorder

E-201508775
08/20/2015 12:34 PM Fee: \$ 3119.75
Page 1 of 1

Removed By: Deputy



NOTICE OF DETERMINATION

To:

x Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA. 95814

x County Clerk
P.O. Box 751
Riverside, CA 92502-0751

From:

City of Moreno Valley
Community & Economic Development Dept.
14177 Frederick Street
Moreno Valley, CA. 92552-0805

Subject:

Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Applicant Name: Highland Fairview
Address: 14225 Corporate Way, Moreno Valley, CA 92553
Telephone Number: (951) 867-5300

Project Title: The World Logistics Center

2012021045
State Clearinghouse No.
(If submitted to Clearinghouse)

Mark Gross
Lead Agency
Contact Person

F I L E D / P O S T E D

County of Riverside
Peter Aldana
Assessor-County Clerk-Recorder
E-201500810
08/26/2015 08:37 AM Fee: \$ 50.00
Page 1 of 2

Removed: By: Deputy

Area Code Telephone

Project Location: The project site is located in the eastern portion of the city and is more specifically located east of Redlands Boulevard, south of the SR-60 Freeway, west of Gilman Springs Road, and north of the San Jacinto Wildlife Area.

Project Description: The project consists of the following actions taken by the Moreno Valley City Council/ Moreno Valley Community Services District Board at a duly noticed public hearing held on August 19, 2015: (1) City Council adoption of a resolution approving General Plan amendments that include land use changes within the proposed World Logistics Center (WLC) Specific Plan area to Business Park/Light Industrial (BP) and Open Space (OS) and land use changes outside of the WLC Specific Plan to Open Space (OS) and corresponding General Plan Element Goals and Objectives text and map amendments to the Community Development, Circulation, Parks, Recreation and Open Space, Safety and Conservation Elements; (2) City Council adoption of a resolution approving a Tentative Parcel Map for the purposes of establishing twenty-six (26) parcels for financing and conveyance purposes, including an 85 acre parcel of land currently located in the County of Riverside adjacent to Gilman Springs Road and Alessandro Boulevard and which is included in the WLC Specific Plan; (3) City Council adoption of a resolution requesting the Riverside Local Agency Formation Commission (LAFCO) to initiate proceedings for the expansion of the City's boundary for approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard (APN Nos. 422-130-002 and 422-130-003); (4) **FIRST READING:** City Council introduction of an ordinance approving PA12-0012 (Change of Zone), PA12-0013 (Specific Plan) and PA12-0014 (Pre-Zoning/Annexation), which include the WLC Specific Plan, full repeal of the Moreno Highlands Specific Plan No. 212-1, Pre-Zoning/Annexation for 85 acres at Northwest Corner of Gilman Springs Road and Alessandro Boulevard, Change of Zone to Logistics Development (LD), Light Logistics (LL) and Open Space (OS) for areas within the WLC Specific Plan Boundary, and a Change of Zone to Open Space (OS) for those project areas outside and southerly of the WLC Specific Plan Boundary; (5) **FIRST READING:** City Council introduction of an ordinance approving PA12-0011 (Development Agreement) for the WLC Project which Real Estate Highland Fairview has legal or equitable interest in, on approximately 2,263 acres, within the WLC Specific Plan area (2,610 acres), intended to be developed as High Cube Logistics Warehousing and related ancillary uses generally east of Redlands Boulevard, south of State Route 60, west of Gilman Springs Road and north of the San Jacinto Wildlife Area; and (6) Moreno Valley Community Services District Board approval of a resolution requesting the Riverside LAFCO to initiate proceedings for the expansion of the Community Services District Boundary to include approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard in conjunction with a related annexation (APN Nos. 422-130-002 and 422-130-003).

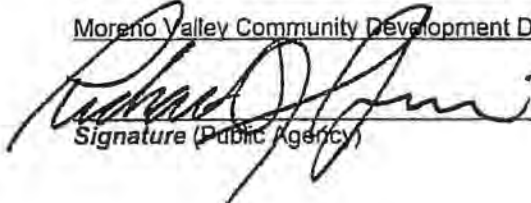
In addition to the foregoing actions taken on August 19, 2015, the project includes the following actions subsequently taken by the Moreno Valley City Council at a duly noticed public meeting held on August 25, 2015: (1) **SECOND READING:** City Council adoption of Ordinance No. 900 approving PA12-0012 (Change of Zone), PA12-0013 (Specific Plan) and PA12-0014 (Pre-Zoning/Annexation), which include the WLC Specific Plan, full repeal of the Moreno Highlands Specific Plan No. 212-1, Pre-Zoning/Annexation for 85 acres at Northwest Corner of Gilman Springs Road and Alessandro Boulevard, Change of Zone to Logistics Development (LD), Light Logistics (LL) and Open Space (OS) for areas within the WLC Specific Plan Boundary, and a Change of Zone to Open Space (OS) for those project areas outside and southerly of the WLC Specific Plan Boundary; and (2) **SECOND READING:** City Council adoption of Ordinance No. 901 approving PA12-0011 (Development Agreement) for the WLC Project which Real Estate Highland Fairview has legal or equitable Interest in, on approximately 2,263 acres, within the WLC Specific Plan area (2,610 acres), intended to be developed as High Cube Logistics Warehousing and related ancillary uses generally east of Redlands Boulevard, south of State Route 60, west of Gilman Springs Road and north of the San Jacinto Wildlife Area.

Please be advised that the City Council of the City of Moreno Valley, acting for itself and as the governing body of the City's Community Services District, duly approved the above described project subject to the following determinations:

1. The project [will ___ will not] have a significant effect on the environment.
2. An Environmental Impact Report was prepared for this project pursuant to provisions of CEQA.
___ Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [were ___ were not] made a condition of the approval of the project.
4. A Statement of Overriding Considerations [was ___ was not] adopted for this project.
5. Findings [were ___ were not] made pursuant to the provisions of CEQA.

This is to certify that the [___ Negative Declaration Final EIR with comments and responses and record of project approval] is available to the General Public at:

Moreno Valley Community Development Department, 14177 Frederick Street, Moreno Valley, California



Signature (Public Agency)

8/26/15
Date

Planning Official
Title

EXHIBIT "B"

15 SEP 24 PM 2: 23

1 BRADLEY R. HOGIN - State Bar No. 140372
bhogin@wss-law.com
2 RICIA R. HAGER - State Bar No. 234052
rhager@wss-law.com
3 WOODRUFF, SPRADLIN & SMART, APC
555 Anton Boulevard, Suite 1200
4 Costa Mesa, CA 92626-7670
Telephone: (714) 558-7000
5 Facsimile: (714) 835-7787

6 KURT R. WIESE, General Counsel - State Bar No. 127251
BARBARA BAIRD, Chief Dep. Counsel - State Bar No. 81507
7 VEERA TYAGI, Senior Dep. District Counsel - State Bar No. 239777
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
8 21865 Copley Drive
Diamond Bar, CA 91765
9 Telephone: (909) 396-3535
Facsimile: (909) 396-2961
10 kwiese@aqmd.gov
bbaird@aqmd.gov
11 vtyagi@aqmd.gov

12 Attorneys for Petitioner South Coast
Air Quality Management District

13
14 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

15 IN AND FOR THE COUNTY OF RIVERSIDE

16 SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT, an air quality
17 management district,

18 Petitioner,

19 v.

20 CITY OF MORENO VALLEY; and DOES 1-
10, inclusive,

21 Respondents.

22 HF PROPERTIES, a California general
23 partnership, SUNNYMEAD PROPERTIES, a
Delaware general partnership; THEODORE
24 PROPERTIES PARTNERS, a Delaware
general partnership; 13451 THEODORE,
25 LLC, a California limited liability company;
HL PROPERTY PARTNERS, a Delaware
26 general partnership; HIGHLAND FAIRVIEW
OPERATING CO., a general partnership and
27 ROES 11-20, inclusive,

28 Real Parties in Interest.

CASE NO.:

**NOTICE OF INTENT TO
COMMENCE ACTION UNDER THE
CALIFORNIA ENVIRONMENTAL
QUALITY ACT**

**[California Environmental Quality Act,
Public Resources Code § 21167.5]**

WOODRUFF, SPRADLIN
& SMART
ATTORNEYS AT LAW
COSTA MESA

WOODRUFF, SPRADLIN
& SMART
ATTORNEYS AT LAW
COSTA MESA


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TO THE CITY OF MORENO VALLEY:

Please take notice that the South Coast Air Quality Management District will commence an action under the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.*, against the City of Moreno Valley. The Action will challenge the City's approval of the World Logistics Center project and the City's certification of the related environmental impact report. The City issued Notices of Determination for the project on August 20, 2015 and August 26, 2015. Copies of these Notices are attached.

DATED: September 17, 2015

Respectfully submitted,
WOODRUFF, SPRADLIN & SMART, APC



BRADLEY R. HUGIN
RICIA R. HAGER
Attorneys for Petitioner South Coast
Air Quality Management District

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am over the age of 18 and not a party to the within action; I am employed by WOODRUFF, SPRADLIN & SMART, a Professional Corporation, in the County of Orange at 555 Anton Boulevard, Suite 1200, Costa Mesa, California 92626-7670.

On September 17, 2015, I served the foregoing document(s) described as **NOTICE OF INTENT TO COMMENCE ACTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list;

(BY CERTIFIED MAIL) I placed said envelope(s) for collection and mailing, following ordinary business practices, at the business offices of WOODRUFF, SPRADLIN & SMART, and addressed as shown on the attached service list, for deposit in the United States Postal Service. I am readily familiar with the practice of WOODRUFF, SPRADLIN & SMART for collection and processing correspondence for mailing with the United States Postal Service, and said envelope(s) will be deposited with the United States Postal Service on said date in the ordinary course of business.

(BY ELECTRONIC SERVICE) by causing the foregoing document(s) to be electronically filed using the Court's Electronic Filing System which constitutes service of the filed document(s) on the individual(s) listed on the attached mailing list.

(BY OVERNIGHT DELIVERY) I placed said documents in envelope(s) for collection following ordinary business practices, at the business offices of WOODRUFF, SPRADLIN & SMART, and addressed as shown on the attached service list, for collection and delivery to a courier authorized by _____ to receive said documents, with delivery fees provided for. I am readily familiar with the practices of WOODRUFF, SPRADLIN & SMART for collection and processing of documents for overnight delivery, and said envelope(s) will be deposited for receipt by _____ on said date in the ordinary course of business.

(BY FACSIMILE) I caused the above-referenced document to be transmitted to the interested parties via facsimile transmission to the fax number(s) as stated on the attached service list.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury that the above is true and correct.

Executed on September 17, 2015 at Costa Mesa, California.


Danielle Trulli

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SERVICE LIST

BY CERTIFIED MAIL

City Clerk
City of Moreno Valley
Moreno Valley City Hall
14177 Frederick Street
PO Box 88005
Moreno Valley, CA 92552

BRADLEY R. HOGIN, ESQ. WOODRUFF, SPRADLIN AND SMART, APC 555 SOUTH ANTON BOULEVARD, SUITE 1200 COSTA MESA, CA 92626 Attorney For: Petitioner TELEPHONE NO.: (714) 838-7000 FAX NO. (Optional): (714) 838-7767 <small>E-MAIL ADDRESS (Optional)</small>		SSN: 140772		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA STREET ADDRESS: 4080 MAIN STREET MAILING ADDRESS: CITY AND ZIP CODE: RIVERSIDE, CA 92501 BRANCH NAME: RIVERSIDE HISTORIC COURTHOUSE					
PLAINTIFF (name each): SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT, AN AIR QUALITY MANAGEMENT DISTRICT DEFENDANT (name each): CITY OF MORENO VALLEY				CASE NUMBER:	
PROOF OF DELIVERY		HEARING DATE:	TIME:	DEPT.:	Ref No. or File No.: 1238-20

AT THE TIME OF SERVICE I WAS AT LEAST 18 YEARS OF AGE AND NOT A PARTY TO THIS ACTION, AND I SERVED COPIES OF THE:

NOTICE OF INTENT TO COMMENCE ACTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

NAME OF PARTY: MORENO VALLEY CITY HALL-CITY CLERK
 DELIVERED TO: KATHY GROSS - EXECUTIVE ASSISTANT

DATE & TIME OF DELIVERY: 09/17/2015
 03:27 pm

ADDRESS, CITY, AND STATE: MORENO VALLEY CITY HALL-CITY CLERK
 14177 FREDERICK ST.
 MORENO VALLEY, CA 92552

MANNER OF SERVICE:

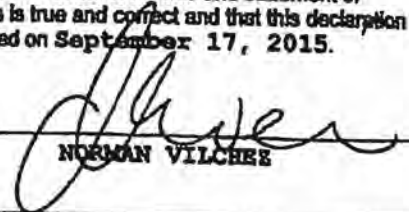
Delivery to a Business: Service was made by delivery to the business office; or by leaving the document(s) with his clerk over the age of 18 therein; or with a person having charge thereof; or if there was no such person in the office, by leaving them between the hours of nine in the morning and five in the afternoon, in a conspicuous place in the office. [CCP 1011]

Fee for Service:

County: LOS ANGELES
 Registration No.: 2015085755
 Nationwide Legal, LLC
 200 W. Santa Ana Blvd., Suite 300
 Santa Ana, CA 92701
 (714) 558-2400
 Ref: 1238-20

I declare under penalty of perjury under the laws of The State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on September 17, 2015.

Signature: _____



NORMAN VILCHEZ

PROOF OF HAND DELIVERY

Order#: 2606147PH/DROPSERVE

EXHIBIT "C"

CITY CLERK
MORENO VALLEY
CALIFORNIA

15 SEP 24 PM 2:23

1 BRADLEY R. HOGIN - State Bar No. 140372
bhogin@wss-law.com
2 RICIA R. HAGER - State Bar No. 234052
rhager@wss-law.com
3 WOODRUFF, SPRADLIN & SMART, APC
555 Anton Boulevard, Suite 1200
4 Costa Mesa, CA 92626-7670
Telephone: (714) 558-7000
5 Facsimile: (714) 835-7787

6 KURT R. WIESE, General Counsel - State Bar No. 127251
BARBARA BAIRD, Chief Dep. Counsel - State Bar No. 81507
7 VEERA TYAGI, Senior Dep. District Counsel - State Bar No. 239777
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
8 21865 Copley Drive
Diamond Bar, CA 91765
9 Telephone: (909) 396-3535
Facsimile: (909) 396-2961
10 kwiese@aqmd.gov
bbaird@aqmd.gov
11 vtyagi@aqmd.gov

12 Attorneys for Petitioner South Coast
Air Quality Management District

13
14 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
15 IN AND FOR THE COUNTY OF RIVERSIDE

16 SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT, an air quality
17 management district,

18 Petitioner,

19 v.

20 CITY OF MORENO VALLEY; and DOES 1-
10, inclusive,

21 Respondents.

22 HF PROPERTIES, a California general
23 partnership, SUNNYMEAD PROPERTIES, a
Delaware general partnership; THEODORE
24 PROPERTIES PARTNERS, a Delaware
general partnership; 13451 THEODORE,
25 LLC, a California limited liability company;
HL PROPERTY PARTNERS, a Delaware
26 general partnership; HIGHLAND FAIRVIEW
OPERATING CO., a general partnership and
27 ROES 11-20, inclusive,

28 Real Parties in Interest.

CASE NO.:

**PETITIONER'S NOTICE OF
ELECTION TO PREPARE
ADMINISTRATIVE RECORD**

**[California Environmental Quality Act,
Public Resources Code § 21167.6]**

WOODRUFF, SPRADLIN
& SMART
ATTORNEYS AT LAW
COSTA MESA


1 TO THE CITY OF MORENO VALLEY:

2 Pursuant to California Public Resources Code § 21167.6(b)(2), the South Coast Air
3 Quality Management District ("Petitioner") hereby elects to prepare the record of
4 proceedings for the above-captioned action relating to the City of Moreno Valley's approval
5 of the World Logistics Center project and the City's certification of the related
6 environmental impact report.

7
8 DATED: September 18, 2015

Respectfully submitted,

9 WOODRUFF, SPRADLIN & SMART, APC

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11 
12 BRADLEY R. HUGIN
13 RÍCIA R. HAGER
14 Attorneys for Petitioner South Coast
15 Air Quality Management District
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WOODRUFF, SPRADLIN
& SMART
ATTORNEYS AT LAW
COSTA MESA

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF ORANGE

3 I am over the age of 18 and not a party to the within action; I am employed by
4 WOODRUFF, SPRADLIN & SMART, a Professional Corporation, in the County of Orange
5 at 555 Anton Boulevard, Suite 1200, Costa Mesa, California 92626-7670.

6 On September 18, 2015, I served the foregoing document(s) described as
7 **PETITIONER'S NOTICE OF ELECTION TO PREPARE ADMINISTRATIVE
8 RECORD**

8 by placing the true copies thereof enclosed in sealed envelopes addressed as stated on
9 the attached mailing list;

10 (BY MAIL) I placed said envelope(s) for collection and mailing, following ordinary
11 business practices, at the business offices of WOODRUFF, SPRADLIN & SMART,
12 and addressed as shown on the attached service list, for deposit in the United States
13 Postal Service. I am readily familiar with the practice of WOODRUFF, SPRADLIN
14 & SMART for collection and processing correspondence for mailing with the United
15 States Postal Service, and said envelope(s) will be deposited with the United States
16 Postal Service on said date in the ordinary course of business.

17 (BY ELECTRONIC SERVICE) by causing the foregoing document(s) to be
18 electronically filed using the Court's Electronic Filing System which constitutes
19 service of the filed document(s) on the individual(s) listed on the attached mailing list.

20 (BY OVERNIGHT DELIVERY) I placed said documents in envelope(s) for
21 collection following ordinary business practices, at the business offices of
22 WOODRUFF, SPRADLIN & SMART, and addressed as shown on the attached
23 service list, for collection and delivery to a courier authorized by
24 _____ to receive said documents, with delivery fees
25 provided for. I am readily familiar with the practices of WOODRUFF, SPRADLIN
26 & SMART for collection and processing of documents for overnight delivery, and
27 said envelope(s) will be deposited for receipt by _____ on
28 said date in the ordinary course of business.

(BY FACSIMILE) I caused the above-referenced document to be transmitted to the
interested parties via facsimile transmission to the fax number(s) as stated on the
attached service list.

(State) I declare under penalty of perjury under the laws of the State of California
that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this
court at whose direction the service was made. I declare under penalty of
perjury that the above is true and correct.

Executed on September 18, 2015 at Costa Mesa, California.


Danielle Trulli

WOODRUFF, SPRADLIN
& SMART
ATTORNEYS AT LAW
COSTA MESA

SERVICE LIST

CITY OF MORENO VALLEY

1
2
3 City Clerk
4 City of Moreno Valley
5 Moreno Valley City Hall
6 14177 Frederick Street
7 PO Box 88005
8 Moreno Valley, CA 92552
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WOODRUFF SPRADLIN
& SMART
ATTORNEYS AT LAW
COSTA MESA

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am over the age of 18 and not a party to the within action; I am employed by WOODRUFF, SPRADLIN & SMART, a Professional Corporation, in the County of Orange at 555 Anton Boulevard, Suite 1200, Costa Mesa, California 92626-7670.

On September 18, 2015, I served the foregoing document(s) described as **PETITION FOR WRIT OF MANDATE; REQUEST FOR INJUNCTIVE RELIEF**

- by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list;
- (BY MAIL)** I placed said envelope(s) for collection and mailing, following ordinary business practices, at the business offices of WOODRUFF, SPRADLIN & SMART, and addressed as shown on the attached service list, for deposit in the United States Postal Service. I am readily familiar with the practice of WOODRUFF, SPRADLIN & SMART for collection and processing correspondence for mailing with the United States Postal Service, and said envelope(s) will be deposited with the United States Postal Service on said date in the ordinary course of business.
- (BY ELECTRONIC SERVICE)** by causing the foregoing document(s) to be electronically filed using the Court's Electronic Filing System which constitutes service of the filed document(s) on the individual(s) listed on the attached mailing list.
- (BY OVERNIGHT DELIVERY)** I placed said documents in envelope(s) for collection following ordinary business practices, at the business offices of WOODRUFF, SPRADLIN & SMART, and addressed as shown on the attached service list, for collection and delivery to a courier authorized by _____ to receive said documents, with delivery fees provided for. I am readily familiar with the practices of WOODRUFF, SPRADLIN & SMART for collection and processing of documents for overnight delivery, and said envelope(s) will be deposited for receipt by _____ on said date in the ordinary course of business.
- (BY FACSIMILE)** I caused the above-referenced document to be transmitted to the interested parties via facsimile transmission to the fax number(s) as stated on the attached service list.
- (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury that the above is true and correct.

Executed on September 18, 2015 at Costa Mesa, California.


Danielle Trulli

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SERVICE LIST

Kamala D. Harris
Office of the Attorney General
300 South Spring Street
Los Angeles, CA 90013-1230
Phone: (213) 897-2000

ATTORNEY GENERAL

City Clerk
City of Moreno Valley
Moreno Valley City Hall
14177 Frederick Street
PO Box 88005
Moreno Valley, CA 92552

CITY OF MORENO VALLEY

COPY

1 BRADLEY R. HOGIN - State Bar No. 140372
bhogin@wss-law.com
2 RICIA R. HAGER - State Bar No. 234052
rhager@wss-law.com
3 WOODRUFF, SPRADLIN & SMART, APC
555 Anton Boulevard, Suite 1200
4 Costa Mesa, CA 92626-7670
Telephone: (714) 558-7000
5 Facsimile: (714) 835-7787

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2015

L. VILLANUEVA

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SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
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12 Attorneys for Petitioner South Coast
Air Quality Management District

13
14 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
15 IN AND FOR THE COUNTY OF RIVERSIDE

16 SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT, an air quality
17 management district,

18 Petitioner,

19 v.

20 CITY OF MORENO VALLEY; and DOES 1-
10, inclusive,

21 Respondents.

22 HF PROPERTIES, a California general
23 partnership, SUNNYMEAD PROPERTIES, a
Delaware general partnership; THEODORE
24 PROPERTIES PARTNERS, a Delaware
general partnership; 13451 THEODORE,
25 LLC, a California limited liability company;
HL PROPERTY PARTNERS, a Delaware
26 general partnership; HIGHLAND FAIRVIEW
OPERATING CO., a general partnership and
27 ROES 11-20, inclusive,

28 Real Parties in Interest.

CASE NO. **RIC 1511213**

**PETITIONER'S NOTICE OF
ELECTION TO PREPARE
ADMINISTRATIVE RECORD**

**[California Environmental Quality Act,
Public Resources Code § 21167.6]**

WOODRUFF, SPRADLIN
& SMART
ATTORNEYS AT LAW
COSTA MESA


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TO THE CITY OF MORENO VALLEY:

Pursuant to California Public Resources Code § 21167.6(b)(2), the South Coast Air Quality Management District ("Petitioner") hereby elects to prepare the record of proceedings for the above-captioned action relating to the City of Moreno Valley's approval of the World Logistics Center project and the City's certification of the related environmental impact report.

DATED: September 18, 2015

Respectfully submitted,
WOODRUFF, SPRADLIN & SMART, APC



BRADLEY R. HUGIN
RÍCIA R. HAGER
Attorneys for Petitioner South Coast
Air Quality Management District

WOODRUFF, SPRADLIN
& SMART
ATTORNEYS AT LAW
COSTA MESA

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am over the age of 18 and not a party to the within action; I am employed by WOODRUFF, SPRADLIN & SMART, a Professional Corporation, in the County of Orange at 555 Anton Boulevard, Suite 1200, Costa Mesa, California 92626-7670.

On September 18, 2015, I served the foregoing document(s) described as **PETITIONER'S NOTICE OF ELECTION TO PREPARE ADMINISTRATIVE RECORD**

- by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list;
- (BY MAIL)** I placed said envelope(s) for collection and mailing, following ordinary business practices, at the business offices of WOODRUFF, SPRADLIN & SMART, and addressed as shown on the attached service list, for deposit in the United States Postal Service. I am readily familiar with the practice of WOODRUFF, SPRADLIN & SMART for collection and processing correspondence for mailing with the United States Postal Service, and said envelope(s) will be deposited with the United States Postal Service on said date in the ordinary course of business.
- (BY ELECTRONIC SERVICE)** by causing the foregoing document(s) to be electronically filed using the Court's Electronic Filing System which constitutes service of the filed document(s) on the individual(s) listed on the attached mailing list.
- (BY OVERNIGHT DELIVERY)** I placed said documents in envelope(s) for collection following ordinary business practices, at the business offices of WOODRUFF, SPRADLIN & SMART, and addressed as shown on the attached service list, for collection and delivery to a courier authorized by _____ to receive said documents, with delivery fees provided for. I am readily familiar with the practices of WOODRUFF, SPRADLIN & SMART for collection and processing of documents for overnight delivery, and said envelope(s) will be deposited for receipt by _____ on said date in the ordinary course of business.
- (BY FACSIMILE)** I caused the above-referenced document to be transmitted to the interested parties via facsimile transmission to the fax number(s) as stated on the attached service list.
- (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury that the above is true and correct.

Executed on September 18, 2015 at Costa Mesa, California.


Danielle Trulli

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SERVICE LIST

City Clerk
City of Moreno Valley
Moreno Valley City Hall
14177 Frederick Street
PO Box 88005
Moreno Valley, CA 92552

CITY OF MORENO VALLEY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF STATUS CONFERENCE

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT VS CIT

CASE NO. RIC1511213

The Status Conference is scheduled for:

DATE: 11/17/15
TIME: 8:30 a.m.
DEPT: 05

All matters including, but not limited to, Fast Track hearings, law and motion, and settlement conference hearings shall be heard by the assigned judge until further order of the Court.

Any disqualification pursuant to CCP 170.6 shall be filed in accordance with that section.

The plaintiff/cross-complainant shall serve a copy of this notice on all defendants/cross-defendants who are named or added to the complaint and file proof of service.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See CA Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing Notice of Assignment To Department For Case Management Purposes and Status Conference on this date, by depositing said copy as stated above

Dated: 09/18/15

Court Executive Officer/Clerk

By:



LOURDES VILLANUEVA, Deputy Clerk

ac:stch shw

COPY

CM-010

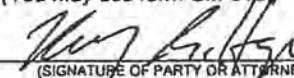
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Bradley R. Hogin, Esq. (State Bar No. 140372) Ricia R. Hager, Esq. (State Bar No. 234052) WOODRUFF, SPRADLIN & SMART 555 Anton Blvd., Suite 1200 Costa Mesa, CA 92626 TELEPHONE NO.: (714) 558-7000 FAX NO.: (714) 835-7787		FOR COURT USE ONLY
ATTORNEY FOR (Name): South Coast Air Quality Management District		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside STREET ADDRESS: 4050 Main Street MAILING ADDRESS: CITY AND ZIP CODE: Riverside, CA 92501 BRANCH NAME:		
CASE NAME: SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT V. CITY OF MORENO VALLEY, ET AL.		
CIVIL CASE COVER SHEET	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER RIC 1511213 JUDGE: DEPT:
<input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input checked="" type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. Large number of separately represented parties d. Large number of witnesses
- b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): One: Violation of CEQA
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015)

Date: September 18, 2015
Bradley R. Hogin, Esq. 
(TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties In Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability (*not asbestos or toxic/environmental*) (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress

Non-PI/PD/WD (Other) Tort

- Business Tor/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice (*not medical or legal*)
- Other Non-PI/PD/WD Tort (35)
- Employment
 - Wrongful Termination (36)
 - Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
 - Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
 - Negligent Breach of Contract/Warranty
 - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
 - Collection Case—Seller Plaintiff
 - Other Promissory Note/Collections Case
- Insurance Coverage (*not provisionally complex*) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
 - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment (*non-domestic relations*)
 - Sister State Judgment
 - Administrative Agency Award (*not unpaid taxes*)
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (*not specified above*) (42)
 - Declaratory Relief Only
 - Injunctive Relief Only (*non-harassment*)
 - Mechanics Lien
 - Other Commercial Complaint Case (*non-tort/non-complex*)
 - Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (*not specified above*) (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief from Late Claim
 - Other Civil Petition

COPY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

- BANNING 311 E. Ramsey St., Banning, CA 92220
- BLYTHE 265 N. Broadway, Blythe, CA 92225
- HEMET 680 N. State St., Hemet, CA 92543
- MORENO VALLEY 13800 Heacock St., Ste. D201, Moreno Valley, CA 92553

- MURRIETA 30755-D Auld Rd., Suite 1226, Murrieta, CA 92563
- PALM SPRINGS 3255 E. Tahquitz Canyon Way, Palm Springs, CA 92262
- RIVERSIDE 4050 Main St., Riverside, CA 92501
- TEMECULA 41002 County Center Dr., #100, Temecula, CA 92591

RI-030

<p><small>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address)</small> Brad R. Hogin, Esq. - SBN 140372 Ricia R. Hager - SBN 234052 Vincent K. Wong - SBN 291436 Woodruff, Spradlin & Smart, 555 Anton Blvd., Ste. 1200, Costa Mesa, CA 92626</p> <p>TELEPHONE NO: 714-558-7000 FAX NO. (Optional): 714-835-7787</p> <p><small>E-MAIL ADDRESS (Optional):</small></p> <p>ATTORNEY FOR (Name): Petitioner South Coast Air Quality Management District</p>	<p style="text-align: center;"><small>FOR COURT USE ONLY</small></p> <p style="text-align: center; font-size: 24pt; font-weight: bold;">FILED</p> <p style="text-align: center; font-size: 12pt;">SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE</p> <p style="text-align: center; font-size: 18pt; font-weight: bold;">SEP 18 2015</p> <p style="text-align: center; font-size: 14pt; font-weight: bold;">L. VILLANUEVA</p>
<p style="text-align: center;">PLAINTIFF/PETITIONER: South Coast Air Quality Management District</p>	<p>CASE NUMBER: RIC 1511213</p>
<p style="text-align: center;">DEFENDANT/RESPONDENT: City of Moreno Valley, et al.</p>	
<p>CERTIFICATE OF COUNSEL</p>	

The undersigned certifies that this matter should be tried or heard in the court identified above for the reasons specified below:

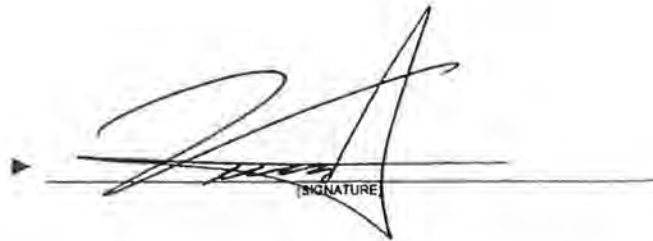
- The action arose in the zip code of: 92252
- The action concerns real property located in the zip code of: _____
- The Defendant resides in the zip code of: _____

For more information on where actions should be filed in the Riverside County Superior Courts, please refer to Local Rule 1.0015 at www.riverside.courts.ca.gov.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date September 18, 2015

Vincent K. Wong
(TYPE OR PRINT NAME OF ATTORNEY PARTY MAKING DECLARATION)


SIGNATURE



SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
www.riverside.courts.ca.gov

Self-represented parties: <http://riverside.courts.ca.gov/selfhelp/self-help.shtml>

**ALTERNATIVE DISPUTE RESOLUTION (ADR) –
INFORMATION PACKAGE**

(California Rules of Court, Rule 3.221; Local Rule, Title 3, Division 2)

***** THE PLAINTIFF MUST SERVE THIS INFORMATION PACKAGE
ON EACH PARTY WITH THE COMPLAINT. *****

What is ADR?

Alternative Dispute Resolution (ADR) is a way of solving legal disputes without going to trial. The main types are mediation, arbitration and settlement conferences.

Advantages of ADR:

- Faster: ADR can be done in a 1-day session within months after filing the complaint.
- Less expensive: Parties can save court costs and attorneys' and witness fees.
- More control: Parties choose their ADR process and provider.
- Less stressful: ADR is done informally in private offices, not public courtrooms.

Disadvantages of ADR:

- No public trial: Parties do not get a decision by a judge or jury.
- Costs: Parties may have to pay for both ADR and litigation.

Main Types of ADR:

Mediation: In mediation, the mediator listens to each person's concerns, helps them evaluate the strengths and weaknesses of their case, and works with them to create a settlement agreement that is acceptable to everyone. If the parties do not wish to settle the case, they go to trial.

Mediation may be appropriate when the parties:

- want to work out a solution but need help from a neutral person; or
- have communication problems or strong emotions that interfere with resolution; or
- have a continuing business or personal relationship.

Mediation is not appropriate when the parties:

- want their public "day in court" or a judicial determination on points of law or fact;
- lack equal bargaining power or have a history of physical/emotional abuse.

Arbitration: Arbitration is less formal than trial, but like trial, the parties present evidence and arguments to the person who decides the outcome. In "binding" arbitration the arbitrator's decision is final; there is no right to trial. In "non-binding" arbitration, any party can request a trial after the arbitrator's decision. The court's mandatory Judicial Arbitration program is non-binding.

Arbitration may be appropriate when the parties:

- ⚡ want to avoid trial, but still want a neutral person to decide the outcome of the case.

Arbitration is not appropriate when the parties:

- ⚡ do not want to risk going through both arbitration and trial (Judicial Arbitration)
- ⚡ do not want to give up their right to trial (binding arbitration)

Settlement Conferences: Settlement conferences are similar to mediation, but the settlement officer usually tries to negotiate an agreement by giving strong opinions about the strengths and weaknesses of the case, its monetary value, and the probable outcome at trial. Settlement conferences often involve attorneys more than the parties and often take place close to the trial date.

RIVERSIDE COUNTY SUPERIOR COURT ADR REQUIREMENTS

ADR Information and forms are posted on the ADR website: <http://riverside.courts.ca.gov/adr/adr.shtml>

General Policy:

Parties in most general civil cases are expected to participate in an ADR process before requesting a trial date and to participate in a settlement conference before trial. (Local Rule 3200)

Court-Ordered ADR:

Certain cases valued at under \$50,000 may be ordered to judicial arbitration or mediation. This order is usually made at the Case Management Conference. See the "Court-Ordered Mediation Information Sheet" on the ADR website for more information.

Private ADR (for cases not ordered to arbitration or mediation):

Parties schedule and pay for their ADR process without Court involvement. Parties may schedule private ADR at any time; there is no need to wait until the Case Management Conference. See the "Private Mediation Information Sheet" on the ADR website for more information.

BEFORE THE CASE MANAGEMENT CONFERENCE (CMC), ALL PARTIES MUST:

1. Discuss ADR with all parties at least 30 days before the CMC. Discuss:
 - ⚡ Your preferences for mediation or arbitration.
 - ⚡ Your schedule for discovery (getting the information you need) to make good decisions about settling the case at mediation or presenting your case at an arbitration.
2. File the attached "Stipulation for ADR" along with the Case Management Statement, if all parties can agree.
3. Be prepared to tell the judge your preference for mediation or arbitration and the date when you could complete it.

(Local Rule 3218)

RIVERSIDE COUNTY ADR PROVIDERS INCLUDE:

- ⚡ The Court's Civil Mediation Panel (available for both Court-Ordered Mediation and Private Mediation). See <http://adr.riverside.courts.ca.gov/adr/civil/panelist.php> or ask for the list in the civil clerk's office, attorney window.
- ⚡ Riverside County ADR providers funded by DRPA (Dispute Resolution Program Act):
Dispute Resolution Service (DRS) Riverside County Bar Association: (951) 682-1015
Dispute Resolution Center, Community Action Partnership (CAP): (951) 955-4900

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE <input type="checkbox"/> Banning - 135 N. Alessandro Road, Banning, CA 92220 <input type="checkbox"/> Hemet - 880 N. State Street, Hemet, CA 92543 <input type="checkbox"/> Indio - 46-200 Oasis Street, Indio, CA 92201 <input type="checkbox"/> Riverside - 4050 Main Street, Riverside, CA 92501 <input type="checkbox"/> Temecula - 41002 County Center Drive, Bldg. C - Suite 100, Temecula, CA 92591	
PLAINTIFF(S): _____ DEFENDANT(S): _____	CASE NUMBER: _____
STIPULATION FOR ALTERNATIVE DISPUTE RESOLUTION (ADR) (CRC 3.2221; Local Rule, Title 3, Division 2)	CASE MANAGEMENT CONFERENCE DATE(S) _____

Court-Ordered ADR:

Eligibility for Court-Ordered Mediation or Judicial Arbitration will be determined at the Case Management Conference. If eligible, the parties agree to participate in:

- Mediation Judicial Arbitration (non-binding)

Private ADR:

If the case is not eligible for Court-Ordered Mediation or Judicial Arbitration, the parties agree to participate in the following ADR process, which they will arrange and pay for without court involvement:

- Mediation Judicial Arbitration (non-binding)
 Binding Arbitration Other (describe): _____

Proposed date to complete ADR: _____

SUBMIT THIS FORM ALONG WITH THE CASE MANAGEMENT STATEMENT.

PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE
PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE
PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE
PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE

Additional signature(s) attached