

CITY CLERK
MORENO VALLEY
RECEIVED

15 SEP 29 AM 11:31

FILED

Superior Court Of California
County Of Riverside
09/23/2015
**A.RANGEL
BY FAX**

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 Petitioner,
12 Residents for a Livable Moreno Valley

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,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 WORLD LOGISTICS CENTER PROJECT (the “Project”) and certifying the
11 Environmental Impact Report (“EIR”) for the Project.
 - 12 2. The City and CSD approvals made for the Project on or about August 19, 2015 and August 25,
13 2015 include, but are not limited to, the following:
 - 14 a. Approval of Resolution No. 2015-56, a Resolution of the City Council of the City of
15 Moreno Valley, California, certifying the Final Environmental Impact Report (P12-016)
16 (SCH #2012021045), adopting the Findings and Statement of Overriding Considerations,
17 and approving the Mitigation Monitoring Program for the World Logistics Center Project
 - 18 b. Approval of Resolution No. 2015-57, a Resolution of the City Council of the City of
19 Moreno Valley, California, approving PA12-0010 (General Plan Amendments) for the
20 proposed World Logistic Center Project to include land use changes for property within
21 the World Logistics Center Specific Plan Area to Business Park/Light Industrial (BP) and
22 Open Space (OS) and properties outside of the World Logistics Center Specific Plan to
23 Open Space (OS) and corresponding General Plan Element Goals and Objectives text and
24 map amendments to the Community Development, Circulation, Parks, Recreation and
25 Open Space, Safety and Conservation Elements;
 - 26 c. Approval of Ordinance No. 900, a Resolution of the City Council of the City of Moreno
27 Valley, California, approving PA12-0012 (Change of Zone), PA12-0013 (Specific Plan)
28 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

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
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

13 **The Project and EIR**

- 14 34. The City prepared a Program EIR for the Project pursuant to State CEQA Guidelines, California
15 Code of Regulations, tit. 14, § 15168.
- 16 35. The Final EIR states the EIR covers the following discretionary actions needed to be approved
17 by the City:
- 18 f. A General Plan Amendment covering 3,714 acres, which re-designates approximately
19 70% of the area (2,610 acres) for logistics warehousing and the remaining 30 percent
20 (1,104 acres) for permanent open space and public facilities. The Amendment includes
21 the following elements of the General Plan: Community Development (land use),
22 Circulation, Parks, Recreation and Open Space, Safety, Conservation, and the General
23 Plan Goals and Objectives.
 - 24 g. A new Specific Plan to govern the development of the 2,610-acre World Logistics
25 Center.
 - 26 h. A separate zoning amendment to rezone 1,104 acres for open space and public facilities
27 uses and to incorporate the Specific Plan into the City's Zoning Map.
 - 28 i. A Tentative Parcel Map covering a 1,539-acre site (property owned by the project
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
4 36. The Project covered by the EIR includes 3,714 acres of land, of which 2,610 acres are designated
5 for logistics warehousing within the World Logistics Center Specific Plan ("WLCSP"), and
6 1,104 acres are designated for open space and public facilities.

7 37. The Project includes the WLCSP covering the 2,610 acres of the total 3,714 acres and proposing
8 development of approximately 40.6 million square feet of high-cube logistics warehouse
9 distribution uses.

10 38. According to the EIR, the WLCSP proposes predominantly High-Cube Logistics Development
11 (LD) (500,000 + square feet buildings), comprising 2,383 acres of the WLCSP area. The LD
12 designation includes a fire station and a proposed 3,000 square feet "logistics support" facility
13 for vehicle fueling and the sale of convenience goods. Approximately 37.1 acres (0.5%) of the
14 WLCSP area would be classified as Light Logistics (200,000 square feet) (LL). 74.3 acres
15 would be designated open space, and 115.8 acres would be right-of-way (included within each
16 land use category).

17 39. The EIR describes logistics warehousing development as used primarily for the storage and/or
18 consolidation of manufactured goods prior to their distribution to secondary retail outlets. The
19 goods imported through the Ports of Long Beach and Los Angeles, as well as other locations, are
20 delivered via truck to the proposed distribution centers and distributed via truck to both in and
21 out of state locations. The warehouse facilities are larger than 500,000 square feet in size, with
22 heights of 24 feet or more and vertical-lift dock doors to allow loading and unloading of products
23 from trucks/trailers. Facilities include ancillary office and maintenance space plus outdoor
24 storage of trucks, trailers, and shipping containers. Parking is provided for vehicles plus trucks
25 and trailers.

26 40. The EIR states the LD land use designation on 2,383 acres would allow development of 40.4
27 million square feet of high-cube logistics warehouse space and represents 99.5% of development
28 in the WLCSP area. Warehouses would be 500,000 square feet or greater, with a maximum
 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.

- 3
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.

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
61. Also on May 1, 2015, the City circulated the FEIR for a 45- day review period.
 62. The Planning Commission held hearings on the Project on June 11th, 25th, and 30th, 2015. At the June 30, 2015 meeting the Planning Commission voted to recommend approval of the Project to the City Council.
 63. The City Council held hearings on the Project on August 17th, 18th, and 19th, 2015. At the close of the meeting on August 19, 2015, the City Council voted to approve the Project including adoption of Resolutions 2015- 56, -57, -58, -59: introduction and first reading of Ordinance Nos. 900 and 901; and adoption of CSD Resolution No. 2015-29 in the Council's role as the Board of the CSD.
 64. The EIR finds that the Project will have significant and unavoidable impacts to the environment in the areas of aesthetics, air quality, land use and planning, noise, and transportation. All other impacts would be less than significant or reduced below a level of significance with mitigation incorporated.
 65. The City found the approval of the Project was supported by overriding considerations.
 66. Second Reading of Ordinance Nos. 900 and 901 occurred on August 25, 2015.
 67. The Notice of Determination was filed and posted August 26, 2015.
 68. This Petition is timely filed pursuant to Public Resources Code § 21167, CEQA Guidelines § 15112, and Government Code § 65009.
 69. The City's approval of the Project will cause Petitioner irreparable injury for which Petitioner has no adequate remedy at law. Petitioner and its members will be irreparably harmed by the City's actions in approving the Project. Petitioner was harmed by, among other things, the failure of the City in its preparation of the EIR to adequately evaluate the potential impacts of the Project and the City's approval of the Project without providing adequate and effective mitigation measures contrary to the requirements of State law.
 70. Petitioner has performed all conditions precedent to filing the action by complying with the requirements of Public Resources Code § 21167.5 by providing written notice of the intent to file this petition for writ of mandate (attached hereto as Exhibit "A"), and by complying with the 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), NOx, 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

Resources Code §§ 21081, 21081.5; California Code of Regulations, tit. 14 § 15091.)

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
115. An adequate EIR must respond to specific suggestions for mitigating a significant environmental impact with a good faith reasoned analysis, unless the suggested mitigation is facially infeasible. (*Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal. App. 4th 1019, 1029.)
116. The City failed to adopt all feasible mitigation for the Project and failed to respond in good faith to recommended mitigation measures.
117. The City also failed to support the rejection of mitigation with findings, supported by substantial evidence, that said measures were infeasible.
118. Petitioner and others commented that not all feasible mitigation was required of this Project, and proposed additional feasible mitigation measures to lessen the Project's environmental impacts. For example, comments noted the City failed to adopt all feasible mitigation for Project noise impacts.
119. Myriad individuals, organizations, and agencies suggested feasible mitigation measures to reduce health risks and air quality impacts from this Project, including zero emissions technologies. Substantial evidence did not support City rejection of these feasible mitigation measures.
120. Criticisms to the City also included the City's failure to require any mitigation for the state highway system where some manner of mitigation (e.g. fair-share plan) was feasible. Substantial evidence did not support the City's rejection of this proposed mitigation.
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.)

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
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.

5
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.

28

1
2
3
4
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.

5
6
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.)

7
8
j. The City's Adoption of the Statement of Overriding Considerations was Improper and not supported by Substantial Evidence

9
10
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.

11
12
13
14
15
16
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).)

17
18
19
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.

20
21
168. The City found the overriding Project benefits outweigh the Project's unavoidable environmental harms.

22
23
24
25
26
27
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
7 172. By approving the Project where the Statement of Overriding Considerations was not
8 supported by substantial evidence in the record, and where feasible alternatives and mitigation
9 measures existed, the City committed prejudicial abuses of discretion for which the Project
10 approvals must be set aside. (Public Resources Code §§ 21168, 21168.5, Code Civ. Proc.
11 §§1094.5, 1085.)

12 **SECOND CAUSE OF ACTION**

13 **(WRIT OF MANDATE- VIOLATIONS OF THE CALIFORNIA GOVERNMENT CODE AND**
14 **MORENO VALLEY MUNICIPAL CODE, AS TO ALL PARTIES)**

15 173. Petitioner hereby realleges and incorporates paragraphs 1 through 172 by reference with
16 the same force and to the same extent as though set forth at length herein.

17 174. Government Code Sections 65300 *et seq.* requires that all development projects must be
18 consistent with the adopted general plan of the City. (Gov't. Code §§ 65300 *et seq.*, 65860,
19 *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1182-86)

20 175. Moreno Valley Municipal Code § 9.01.080 requires that all development be consistent
21 with the General Plan.

22 176. The Project is inconsistent with the City's General Plan, and that the City's findings that
23 the Project is consistent with the General Plan are unsupported by substantial evidence.

24 177. Petitioner and others commented the Project is inconsistent with the City's General Plan,
25 and that the City's findings that the Project is consistent with the General Plan are unsupported
26 by substantial evidence.

27 178. By approving the Project where the Project is inconsistent with the General Plan and
28 making findings of General Plan consistency which are unsupported by substantial evidence in
the record, the City committed prejudicial abuses of discretion for which the Project approvals
must be set aside. (Code Civ. Proc. §§1094.5, 1085.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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.

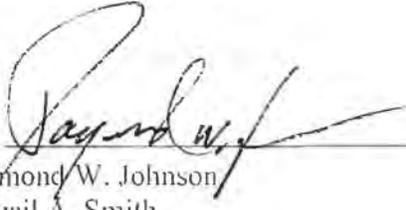
5 195. For a judgment requiring that the City prepare, circulate, and consider a new and legally
6 adequate Environmental Impact Report and otherwise comply with CEQA in any subsequent
7 action taken to approve this Project. (Public Resources Code §§ 21168, 21168.5, 21168.9, Code
8 Civ. Proc. §§1094.5, 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
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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"

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

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

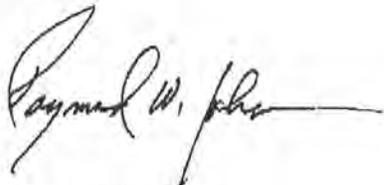
Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552
cityclerk@moval.org

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"

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

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.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

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

13
14
15 By: 
16 Raymond W. Johnson
17 Abigail A. Smith
18 Kimberly Foy
19 Kendall Holbrook
20 Attorneys for Petitioner, Residents for a
21 Livable Moreno Valley
22
23
24
25
26
27
28

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)	CASE NUMBER JUDGE DEPT.
<input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal Rules of Court, rule 3.402)		

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)	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)	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)
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)	Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)	Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20)
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)	Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)
Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	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)	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: **CEQA**

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): **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:

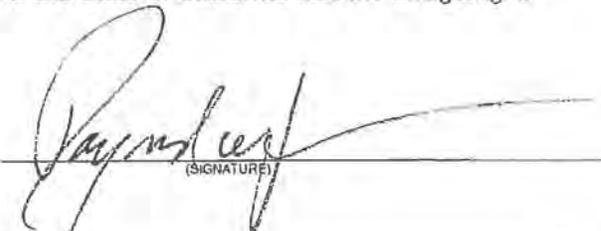
- The action arose in the zip code of: 92555 or CEQA
 City/Community of Moreno Valley
- The action concerns real property located in the zip code of _____ or
 City/Community of _____
- The Defendant resides in the zip code of _____ or
 City/Community of _____

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

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF RIVERSIDE

11 RESIDENTS FOR A LIVABLE MORENO)
12 VALLEY, an unincorporated association, and,)

13 Petitioner,)

14 v.)

15 CITY OF MORENO VALLEY, a public)
16 entity; CITY COUNCIL OF CITY OF)
17 MORENO VALLEY, a public entity;)
18 MORENO VALLEY COMMUNITY)
19 SERVICES DISTRICT, a public entity;)
20 MORENO VALLEY COMMUNITY)
21 SERVICES DISTRICT BOARD OF)
22 DIRECTORS, a public entity; and DOES 1-10,)
23 inclusive,)

24 Respondents,)

25 HIGHLAND FAIRVIEW, INC., a corporation;)
26 HIGHLAND FAIRVIEW, LLC, a limited)
27 liability company; HIGHLAND FAIRVIEW, a)
28 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.)

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

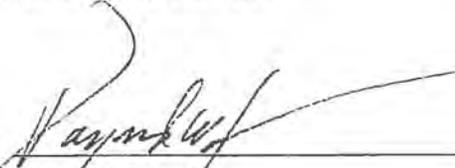
1 **TO THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA:**

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

14
15
16
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

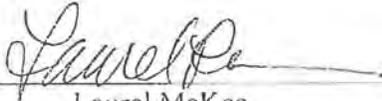
VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE

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.

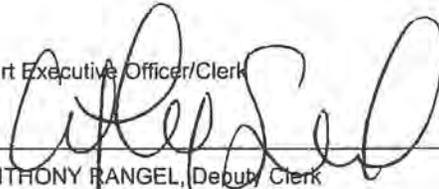
CERTIFICATE OF MAILING

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.

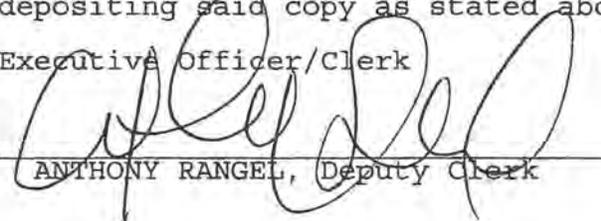
CERTIFICATE OF MAILING

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