

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)
 Michelle Ouellette, SBN 145191; Charity Schiller, SBN 234291
 Best Best & Krieger LLP
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 Riverside, CA 92502-1028
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 ATTORNEY FOR (Name) Petitioner/Plaintiff Riverside County Transportation Commission

FOR COURT USE ONLY
 CITY CLERK
 MORENO VALLEY
 15 SEP 18 PM 1:24

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
 STREET ADDRESS 4050 Main Street
 MAILING ADDRESS
 CITY AND ZIP CODE Riverside, CA 92501
 BRANCH NAME

CASE NAME: Riverside County Transportation Commission v. City of Moreno Valley, et al.

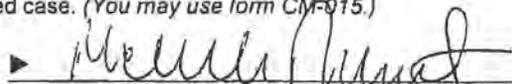
CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000)
 Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter **Joinder**
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER (RICO) **1511130**
 JUDGE
 DEPT

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

1. Check one box below for the case type that best describes this case:
- | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Auto Tort</p> <input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
<p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <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)
<p>Non-PI/PD/WD (Other) Tort</p> <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)
<p>Employment</p> <input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | <p>Contract</p> <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)
<p>Real Property</p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26)
<p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
<p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input checked="" type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | <p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
<p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20)
<p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42)
<p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. 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): 2
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)
 Date: September 17, 2015
 Michelle Ouellette/Charity Schiller
 (TYPE OR PRINT NAME) ▶  (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

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

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

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

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

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

CASE TYPES AND EXAMPLES

Auto Tort

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

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

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

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g. slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36) Other Employment (15)

Contract

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

Real Property

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

Unlawful Detainer

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

Judicial Review

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

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

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

Enforcement of Judgment

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

Miscellaneous Civil Complaint

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

Miscellaneous Civil Petition

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

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

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

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

RI-030

<p><small>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address)</small> Michelle Ouellette, Bar No. 145191 Best Best & Krieger LLP 3390 University Ave., 5th Floor Riverside, CA 92501</p> <p><small>TELEPHONE NO</small> (951) 686-1450 <small>FAX NO (Optional)</small></p> <p><small>E-MAIL ADDRESS (Optional)</small></p> <p><small>ATTORNEY FOR (Name)</small> Petitioner/Plaintiff Riverside County Transp. Commission</p>	<p>FILED <small>FOR COURT USE ONLY</small> SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE</p> <p>SEP 17 2015</p> <p><u>R. Alessandro</u></p>
<p align="center"><small>PLAINTIFF/PETITIONER</small> Riverside County Transportation Commission</p> <p align="center"><small>DEFENDANT/RESPONDENT</small> City of Moreno Valley, et al.</p>	<p align="center"><small>CASE NUMBER</small> RIC 1511130</p>
<p>CERTIFICATE OF COUNSEL</p>	

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

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

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

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

Date September 17, 2015

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

▶ 
(SIGNATURE)

COPY

**SUMMONS
(CITACION JUDICIAL)**

NOTICE TO DEFENDANTS/RESPONDENTS:

(AVISO AL DEMANDADO):

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

YOU ARE BEING SUED BY PLAINTIFF/PETITIONER:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

RIVERSIDE COUNTY TRANSPORTATION COMMISSION, a public agency

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

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 17 2015

R. Alessandro

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

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

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

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

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

The name and address of the court is:

(El nombre y dirección de la corte es):

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

CASE NUMBER
(Número de Caso)

RTC 1511130

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

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

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

SEP 17 2015

Clerk, by R. Alessandro, Deputy
(Secretario) (Adjunta)

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



- NOTICE TO THE PERSON SERVED:** You are served
1. as an individual defendant.
 2. as the person sued under the fictitious name of (specify):
 3. on behalf of (specify):
 under:

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

SHORT TITLE:
Riverside County Transportation Commission v. City of Moreno Valley

INSTRUCTIONS FOR USE

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

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

Plaintiff Defendant Cross-Complainant Cross-Defendant

Real Parties in Interest

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

1 MICHELLE OUELLETTE, Bar No. 145191
2 CHARITY SCHILLER, Bar No. 234291
3 ANDREW M. SKANCHY, Bar No. 240461
4 BEST BEST & KRIEGER LLP
5 3390 University Avenue, 5th Floor
6 P.O. Box 1028
7 Riverside, California 92502
8 Telephone: (951) 686-1450
9 Facsimile: (951) 686-3083

6 Attorneys for Petitioner/Plaintiff
7 RIVERSIDE COUNTY TRANSPORTATION
8 COMMISSION

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 17 2015

R. Alessandrino

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF RIVERSIDE

10 RIC 1511130

11 RIVERSIDE COUNTY TRANSPORTATION
12 COMMISSION, a public agency,

12 Petitioner/Plaintiff,

13 v.

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

18 Respondents/Defendants.

19 HIGHLAND FAIRVIEW;
20 HIGHLAND FAIRVIEW OPERATING
21 COMPANY, a Delaware general partnership;
22 HF PROPERTIES, a California general
23 partnership;
24 SUNNYMEAD PROPERTIES, a Delaware
25 general partnership;
26 THEODORE PROPERTIES PARTNERS, a
27 Delaware general partnership;
28 13451 THEODORE, LLC, a California limited
liability company;
HL PROPERTY PARTNERS, a Delaware
general partnership; and
ROES 21 - 40 inclusive,

Real Parties in Interest.

Case No.

(California Environmental Quality Act)

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

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

[Deemed Verified Pursuant to Code of
Civ. Proc., § 446]

17336 00031\19428930 2

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

COPY

LAW OFFICES OF
BEST BEST & KRIEGER LLP
3390 UNIVERSITY AVENUE, 5TH FLOOR
P.O. BOX 1028
RIVERSIDE CALIFORNIA 92502

1 Petitioner RIVERSIDE COUNTY TRANSPORTATION COMMISSION (Petitioner and
2 Plaintiff or RCTC) alleges as follows:

3
4 **INTRODUCTION**

5 1. This action involves the City of Moreno Valley's (Moreno Valley, or Respondent
6 and Defendant) decision to approve the World Logistics Center project (Project) and certify the
7 accompanying Environmental Impact Report (EIR). The Project covers 3,818 acres in eastern
8 Moreno Valley in Riverside County south of SR-60, between Redlands Boulevard and Gilman
9 Springs Road, extending to the southern boundary of Moreno Valley. The Project area includes
10 open space and 2,610 acres for the development of up to 40,600,000 square feet of logistics
11 warehouses and ancillary uses. As explained in the EIR, the Project, at full build-out, will add
12 68,721 vehicles to area roadways every day (the passenger car equivalent of 89,975 surface street
13 trips and 75,724 freeway trips per day).

14 2. Moreno Valley certified the Project EIR via Moreno Valley City Council (City
15 Council or Council) Resolution No. 2015-56, and approved the Project via Council's approval of
16 Resolution No. 2015-57, which approved General Plan Amendment (PA12-0010); Resolution No.
17 2015-58, which approved Tentative Parcel Map No. 36457 (PA12-0013); Resolution 2015-59,
18 which requested that the Riverside County Local Agency Formation Commission (LAFCO)
19 initiate proceedings for the expansion of Moreno Valley boundaries; Ordinance No. 900, which
20 approved Change of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and
21 Rezoning/Annexation (PA12-0014); and Ordinance No. 901, which approved a Development
22 Agreement (PA12-0011) ; and via the Moreno Valley Community Services District's (CSD)
23 approval of Resolution CSD 2015-29, which requested that LAFCO initiate proceedings for the
24 expansion of the CSD's boundary in conjunction with the related annexation requested by the
25 City Council.

26 3. Through this lawsuit, RCTC seeks to enforce the provisions of CEQA as they
27 apply to the Project. The maintenance and prosecution of this action will confer a substantial
28 benefit on the public by ensuring full compliance with the requirements of CEQA, a public-

1 disclosure statute, and by protecting the public from the unanalyzed potential environmental
2 harms, unmitigated environmental impacts and lack of adoption of all feasible mitigation
3 measures as alleged in this Petition and Complaint.

4 **THE PARTIES**

5 4. Petitioner and Plaintiff, RCTC, is, and at all relevant times was, a county
6 transportation commission created by California Public Utilities Code section 130050, located in
7 the County of Riverside, California. RCTC is governed by a 34-member Commission that
8 includes a mayor or council member from each of Riverside County's cities, all five members of
9 the Riverside County Board of Supervisors, and a non-voting appointee of the Governor. RCTC
10 is charged with planning and implementing transportation and transit improvements in Riverside
11 County in a manner that protects the public health, safety, welfare, and environment of Riverside
12 County.

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

22 6. Petitioner and Plaintiff is informed and believes, and on that basis alleges, that
23 Respondent CSD is a governmental body within Moreno Valley, established pursuant to the
24 Community Services District Law (Cal. Gov. Code section 61000 et seq.). CSD is a dependent
25 special district of Moreno Valley, and the Moreno Valley City Council serves as the Board of
26 Directors of the CSD. CSD has responsibility for certain funding mechanisms and services within
27 the territory of Moreno Valley. CSD, its staff, and contractors and consultants working under its
28 control and direction, approved a resolution, which was supported by the EIR's analysis,

1 furthering the Project.

2 7. Petitioner is informed and believes and on that basis alleges that Highland
3 Fairview is a Real Party in Interest insofar as the Notices of Determination that Moreno Valley
4 prepared and filed with the Riverside County Clerk on August 20, 2015, and August 26, 2015,
5 following certification of the EIR and approval of the Project, identified Highland Fairview as the
6 applicant for the Project that is the subject of this proceeding.

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

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

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

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

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

27 13. Petitioner is informed and believes and on that basis alleges that the HL Property
28 Partners, a Delaware general partnership, is a Real Party in Interest insofar as it is listed as the

1 owner and developer of the property and the applicant for the Project that is the subject of this
2 proceeding or has some other cognizable interest in the Project.

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

12 JURISDICTION

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

17 VENUE

18 16. The Superior Court of the County of Riverside is the proper venue for this action.
19 The Project at issue and the property it concerns are located within the County of Riverside.
20 RCTC's members and Moreno Valley are located wholly within the County of Riverside.

21 STANDING

22 17. RCTC and those it represents will be directly and adversely affected by Moreno
23 Valley's actions in certifying the EIR and approving the Project. RCTC has no plain, speedy, and
24 adequate remedy in the ordinary course of law in that RCTC, its members, and the public will
25 suffer irreparable harm if the Project is implemented.

26 18. As recognized in the EIR, the Project will have significant impacts on
27 transportation and traffic in Riverside County. Accordingly, any action which permits the Project
28 to go forward without disclosing, analyzing, and mitigating the Project's impacts in the EIR

1 regarding transportation and traffic, is one in which RCTC, the public agency charged with
2 planning and implementing transportation and transit improvements in Riverside County, has a
3 beneficial interest. RCTC objected to Moreno Valley's approval of the Project and requested that
4 Moreno Valley comply with CEQA. RCTC, other agencies, organizations and individuals raised
5 or affirmed each of the legal deficiencies asserted in this Petition and Complaint orally or in
6 writing prior to Moreno Valley's approval of the Project and adoption of the EIR.

7 19. RCTC seeks to promote and enforce the informational purposes of CEQA in this
8 action, which purposes are defeated by Moreno Valley's approval of the Project without
9 sufficient or accurate information, analysis or mitigation. Ascertaining the facts about the
10 environmental impacts of projects and disclosing those facts to decision-makers and the public
11 are purposes that are within the zone of interests CEQA was intended to protect.

12 20. Moreno Valley has a mandatory and public duty to comply with CEQA and all
13 other applicable laws when adopting the EIR and approving the Project. The issues in this action
14 under CEQA are issues of public right, and the object of the action is to enforce public duties in
15 the public interest. RCTC has had to employ attorneys to bring this litigation. Furthermore,
16 RCTC has incurred and will incur substantial attorneys' fees and litigation costs because of
17 Respondents' unlawful acts. This litigation, if successful, will result in enforcement of important
18 rights affecting the public interest. Such enforcement will confer a significant benefit on a large
19 class of persons. RCTC is entitled to be reimbursed for its attorneys' fees and costs because it is
20 functioning as a private attorney general pursuant to section Code of Civil Procedure section
21 1021.5.

22 21. Respondents and Real Parties in Interest are threatening to proceed with the
23 Project in the near future. Implementation of the Project will irreparably harm the environment in
24 that the Project will significantly increase traffic congestion and associated impacts on the
25 environment. RCTC has no plain, speedy, or adequate remedy at law, and, unless a stay,
26 preliminary injunction, temporary restraining order and injunction, or permanent injunction is
27 issued that restrains Respondents and Real Parties in Interest from proceeding with the Project,
28 RCTC will be unable to enforce its rights under CEQA, which prohibits Moreno Valley's

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1 approval of the Project.

2 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

3 22. This action is brought consistent with the requirements of Public Resources Code
4 section 21177 and Code of Civil Procedure sections 1085 and 1094.5. RCTC has exhausted all
5 available administrative remedies by objecting to Moreno Valley's approval of the Project prior
6 to Moreno Valley's certification of the EIR and approval of the Project and requesting that
7 Moreno Valley comply with CEQA. RCTC, other agencies, organizations, or individuals raised
8 or affirmed each of the legal deficiencies asserted in this Petition and Complaint orally or in
9 writing prior to Moreno Valley's adoption of the EIR and approval of the Project.

10 23. RCTC has complied with Public Resources Code section 21167.5 by prior
11 provision of notice to Moreno Valley indicating its intent to commence this action. The notice
12 and proof of service are attached hereto as Exhibit A.

13 24. Pursuant to Public Resources Code section 21167.7, RCTC has concurrently
14 provided a copy of this Petition and Complaint to the California Attorney General.

15 25. This lawsuit has been commenced within the time limits imposed for this action
16 under the Code of Civil Procedure and the Public Resources Code.

17 **THE PROJECT**

18 26. RCTC seeks issuance of a writ of mandate ordering Moreno Valley to vacate and
19 set aside its approvals of the Project.

20 27. As stated in the EIR, on or about February 26, 2012, Moreno Valley issued a
21 Notice of Preparation (NOP) to notify state agencies and the public that an EIR was going to be
22 prepared for the Project. During the NOP review period, Moreno Valley received responses from
23 many organizations and individuals, many of which expressed concerns about the Project's
24 significant size and likely impact on transportation and traffic.

25 28. RCTC is informed and believes that the Draft EIR was circulated for public review
26 on or about February 5, 2013, until approximately April 8, 2013.

27 29. During the Draft EIR's public review period, numerous commenters, including the
28 California Department of Transportation (Caltrans) and the Riverside County Transportation and

1 Land Management Agency (TLMA), submitted comments regarding inadequacies in the Draft
2 EIR's transportation and traffic analysis, including potentially unmitigated and significant
3 transportation and traffic impacts.

4 30. The Final EIR was released to the public in or about May of 2015.

5 31. In early June of 2015, prior to the Moreno Valley Planning Commission's
6 consideration of the EIR and Project, Caltrans, TLMA, RCTC, and others submitted letters to
7 Moreno Valley identifying outstanding deficiencies in the EIR, including transportation and
8 traffic issues. RCTC submitted a comment letter dated June 9, 2015.

9 32. Moreno Valley responded to these comment letters on June 10, 2015.

10 33. After a series of meetings held on June 11, 2015, and June 25, 2015, the Moreno
11 Valley Planning Commission recommended that the City Council certify the EIR and approve the
12 Project.

13 34. In August of 2015, prior to the City Council's consideration of the EIR and
14 Project, RCTC and others submitted additional letters to Moreno Valley reiterating the EIR's
15 deficiencies and explaining how Moreno Valley's June 10, 2015 responses failed to address the
16 inadequacies in the EIR's transportation and traffic analysis, including unmitigated and
17 significant transportation and traffic impacts.

18 35. RCTC is informed and believes, and on that basis alleges, that other comment
19 letters were also received by Moreno Valley, prior to certification of the EIR and approval of the
20 Project, that identified deficiencies in the EIR.

21 36. On or about August 19, 2015, the City Council held an initial public hearing on the
22 EIR and Project. After closing the public hearing, the City Council voted to adopt Resolution No.
23 2015-56 certifying the EIR. On or around the same date, the City Council also adopted the
24 following resolutions approving the Project: Resolution No. 2015-57, which approved General
25 Plan Amendment (PA12-0010); Resolution No. 2015-58, which approved Tentative Parcel Map
26 No. 36457 (PA12-0013); and Resolution 2015-59, which requested that LAFCO initiate
27 proceedings for the expansion of Moreno Valley's boundaries. On or around the same date, the
28 City Council also introduced the following ordinances for first reading: Ordinance No. 900,

1 approving Change of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and
2 Rezoning Annexation (PA12-0014); and Ordinance No. 901, approving a Development
3 Agreement (PA12-0011).

4 37. Also on or about August 19, 2015, the CSD approved Resolution CSD 2015-29,
5 which requested that LAFCO initiate proceedings for the expansion of CSD's boundaries in
6 conjunction with the related annexation requested by the City Council.

7 38. On or about August 20, 2015, Moreno Valley filed a Notice of Determination
8 purporting to reflect its approval of a General Plan Amendment (PA12-0010), Development
9 Agreement (PA12-0011), Change of Zone (PA12-0012), Specific Plan (PA12-0013), Annexation
10 (PA12-0014), Tentative Parcel No. 36457 (PA12-0015), and an Environmental Impact Report
11 (P12-016) for the Project.

12 39. In conflict with the representations in the August 20, 2015 Notice of
13 Determination, the City Council held a meeting on August 25, 2015, whereat the City Council, on
14 second reading, adopted Ordinance No. 900, approving Change of Zone (PA12-0012), Specific
15 Plan Amendment (PA12-0013) and Rezoning/Annexation (PA12-0014); and Ordinance No. 901,
16 approving a Development Agreement (PA12-0011).

17 40. On or about August 26, 2015, Moreno Valley filed another Notice of
18 Determination, purporting to reflect its approval of Resolution No. 2015-57, which approved
19 General Plan Amendment (PA12-0010); Resolution No. 2015-58, which approved Tentative
20 Parcel Map No. 36457 (PA12-0013); Resolution 2015-59, which requested that LAFCO initiate
21 proceedings for the expansion of Moreno Valley boundaries; Resolution CSD 2015-29, which
22 requested that LAFCO initiate proceedings for the expansion of the CSD boundary in conjunction
23 with the related annexation requested by the City Council; Ordinance No. 900, approving Change
24 of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and Rezoning Annexation
25 (PA12-0014); and Ordinance No. 901, approving a Development Agreement (PA12-0011). The
26 August 26, 2015 Notice of Determination did not include reference to the City's resolution
27 certifying the EIR.
28

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FIRST CAUSE OF ACTION

(Petition for Writ of Mandate Pursuant to Code Civ. Proc., §§ 1085 and 1094.5 - Violation
of CEQA)

(Against All Respondents and Real Parties in Interest)

41. RCTC incorporates herein by reference paragraphs 1 through 40, above, as though set forth in full.

42. “[T]he legislature intended [CEQA] to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*City of San Diego v. Board of Trustees of the California State University* (2015) 61 Cal.4th 945, 963 [internal punctuation and citation omitted].) When complying with CEQA, a lead agency must proceed in the manner required by law, and its determinations must be supported by substantial evidence. (Pub. Resources Code, § 21168.5.) “CEQA requires a public agency to mitigate or avoid its projects’ significant effects not just on the agency’s own property but on the environment.” (*City of San Diego, supra*, 61 Cal.4th at 957.) “CEQA defines the environment as the physical conditions which exist *within the area which will be affected by a proposed project* and mandates that each public agency shall mitigate or avoid the significant effects *on the environment* of projects that it carries out or approves whenever it is feasible to do so.” (*Id.* at 960 [italics in original, internal quotes and citations omitted].) “An EIR that incorrectly disclaims the power and duty to mitigate identified environmental effects based on erroneous legal assumptions is not sufficient as an informative document, and an agency’s use of an erroneous legal standard constitutes a failure to proceed in a manner required by law.” (*Id.* at 956 [internal citations omitted].)

43. RCTC is informed and believes, and on that basis alleges, that Moreno Valley violated CEQA in numerous ways.

44. Moreno Valley’s failure to comply with CEQA includes, but is not limited to, the following.

a. **Failure to Identify and Adequately Analyze Project Impacts:** An EIR’s conclusions must be supported by substantial evidence in the administrative record. Here, despite

1 Moreno Valley's own statements to the contrary, the EIR failed to fully and properly analyze the
2 potential for the Project to impact the environment. For example, although Section 4.15 of the
3 EIR discusses a traffic study, and admits that the Project will have significant impacts on area
4 roadways, segments, intersections and freeway facilities (Draft EIR, 4.15-222), the traffic study
5 and EIR failed to include discussion of the Project's full impacts on Gilman Springs Road,
6 particularly the segment from Bridge Street to Lambs Canyon/Sanderson. This and other
7 omissions render the EIR's analysis of potential Transportation/Traffic impacts of the Project
8 inadequate under CEQA.

9 b. **Failure to Adopt Adequate Mitigation Measures:** "[E]ach public agency shall
10 mitigate or avoid the significant effects on the environment of projects that it carries out or
11 approves whenever it is feasible to do so." (Pub. Resources Code, § 21002.1(b).) mitigation of a
12 project's impacts can be accomplished by (1) Avoiding the impact by not taking a certain action
13 or parts of the action, (2) Minimizing impacts by limiting an activity; Repairing, rehabilitating, or
14 restoring the affected environment, (3) Reducing or eliminating an impact over time through
15 preservation and maintenance operations, or (4) Compensating for an impact by replacing or
16 providing substitute resources or environments, including the payment of fees to provide
17 mitigation for an impact identified in an EIR. (14 Cal. Code of Regulations (CEQA Guidelines), §
18 15370.) Here, substantial evidence in the record reflects that Moreno Valley failed to adopt
19 adequate mitigation measures. For example the EIR states that the Project will have significant
20 and unavoidable impacts on "Roads Outside the Jurisdiction of the City and Not Part of the
21 TUMF [Transportation Uniform Mitigation Fees] Program" and "TUMF Facilities." (EIR at 1-
22 22.) This lengthy list of significantly-impacted roads includes "all freeway mainline, weaving,
23 and ramp facilities." (EIR at 4.15-239.) The EIR concludes that these impacts are significant and
24 unavoidable because no fair-share program currently exists for numerous roads outside the City's
25 jurisdiction, and "the City cannot guarantee that such a mechanism will be established and [the
26 City] does not have direct control over facilities outside of its jurisdiction." (EIR at 4.15-237.)
27 However, as explained in a comment letter from Caltrans on August 17, 2015:

28 "Nothing in CEQA requires Caltrans to adopt a contribution

1 program before fair share payments can be considered adequate
2 mitigation. All that is required is that mitigation be part of a
3 reasonable plan of actual mitigation that the relevant agency
4 commits itself to implementing. Here specific mitigation measures
5 were identified in consultation with Caltrans. Caltrans is willing to
6 commit to work with the City, or other local partners and other
7 developers to secure the funding for and to implement these, or
8 comparable measure's [sic] subject to future CEQA compliance
9 requirements as applicable. If the City prefers additional assurance
10 about how the fair share contributions will be used, reasonable
11 mechanisms exist to provide those assurances, such as traffic
12 mitigation agreements or cooperative agreements.

13 Unfortunately, the City has not explored those options or consulted
14 with Caltrans regarding any others. Thus the City's take it or leave
15 it condition that Caltrans adopt a contribution plan or no payment is
16 required does not comply with CEQA's mandate that the lead
17 agency include all reasonable mitigation. And the fact that the FEIR
18 did not examine these options demonstrate that the City's
19 conclusion that such mitigation would be infeasible is unsupported
20 by substantial evidence."

21 This confirms the validity of the traffic concerns expressed by many members of the public and
22 RCTC who commented on the Project, namely that, mitigation was available to reduce the
23 Project's significant impacts to area roads. Moreno Valley's failure to incorporate this mitigation
24 is an abuse of discretion. Further, Moreno Valley's improper rejection of the mitigation is not
25 supported by substantial evidence.

26 c. **Failure to Adequately Respond to Comments on the Draft EIR:** CEQA
27 requires lead agencies to evaluate comments on the draft EIR and prepare written responses for
28 inclusion in the EIR. (Pub. Resources Code, § 21091(d).) When a significant environmental issue
is raised in comments, the response must be detailed and provide a reasoned, good faith analysis.
(CEQA Guidelines, § 15088(c).) Caltrans, TLMA, and others provided Moreno Valley with
detailed comments as to how to make the Draft EIR's traffic and transportation analysis legally
adequate. But Moreno Valley did not sufficiently respond to or incorporate the feasible
suggestions proposed by commenters, including potential mitigation measures and areas of
analysis that could be improved.

d. **Failure to Adopt Legally Adequate Findings:** When an EIR identifies
significant environmental effects that may result from a project, the lead agency must make one
or more specific findings for those impacts. (Pub. Resources Code, § 21081; CEQA Guidelines, §

1 15091(a.) Findings of infeasibility must be specific and supported by substantial evidence in the
2 record. (Pub. Resources Code, § 21081.5.) “[I]t is the policy of the state that public agencies
3 should not approve projects as proposed if there are feasible alternatives or feasible mitigation
4 measures available which would substantially lessen the significant environmental effects of such
5 projects.” (Pub. Resources Code, § 21002.) Here, specific and feasible mitigation measures were
6 proposed by RCTC and others to reduce the Project’s significant impacts on transportation and
7 traffic. But Moreno Valley, without incorporating the proposed mitigation measures and without
8 substantial evidence, stated in its findings that the Project’s transportation and traffic impact is
9 “reduced to the extent feasible.” This is a violation of CEQA.

10 e. **Failure to Conduct Sufficient Environmental Review:** Moreno Valley failed to
11 conduct sufficient environmental review for the Project despite the fact that Moreno Valley’s own
12 documentation concedes that the Project has the potential to cause a number of foreseeable direct
13 and indirect potentially significant impacts. The EIR and its process also violate CEQA in
14 numerous other ways due to deficiencies in the EIR’s environmental setting, inadequate
15 disclosure and analysis, inadequate mitigation and failure to address potentially significant
16 impacts. The inadequacies described above and in this paragraph are prejudicial and require
17 Project approvals to be revoked and full environmental review in compliance with CEQA
18 conducted before the Project can proceed.

19 f. **Failure to Adopt an Adequate Statement of Overriding Considerations:**
20 When an agency approves a project with significant environmental effects that will not be
21 avoided or substantially lessened, it must adopt a statement of overriding considerations. (CEQA
22 Guidelines, § 15043.) Moreno Valley failed to adopt a legally adequate Statement of Overriding
23 Considerations in that the overriding considerations are not supported by substantial evidence in
24 the record.

25 45. Moreno Valley thereby violated its duties to comply with CEQA and the CEQA
26 Guidelines. Accordingly, the EIR and Project approvals must be set aside. And RCTC asks this
27 Court for an award of attorney’s fees and costs against Respondents and Real Parties in Interest as
28 permitted or required by law.

- 1 b. To rescind approval of the Project;
- 2 c. To cease, vacate, and set aside all actions related to the authorization, approval,
- 3 and execution of the Project;
- 4 d. To prepare and circulate, in compliance with CEQA and the CEQA Guidelines
- 5 adequate environmental review, prior to any re-approval; and
- 6 e. To prohibit any action by Moreno Valley in furtherance of the Project until
- 7 Respondents comply with the mandates of CEQA.
- 8 2. For a stay, temporary restraining order, preliminary injunction, and permanent injunction
- 9 prohibiting any actions by Moreno Valley or the Real Parties In Interest pursuant to
- 10 Moreno Valley's approval of the Project until Moreno Valley fully complies with all
- 11 requirements of CEQA and all other applicable state and local laws, policies, ordinances,
- 12 and regulations;

13 **ON THE SECOND CAUSE OF ACTION**

14 **(Against All Respondents and Real Parties in Interest)**

- 15 1. That this Court declare Moreno Valley's discretionary approval of the Project in violation
- 16 of CEQA as set forth above.
- 17 2. That this Court declare that Moreno Valley must properly prepare, circulate, and consider
- 18 adequate environmental documentation for the Project in order to meet the requirements
- 19 of CEQA.

20 **ON ALL CAUSES OF ACTION**

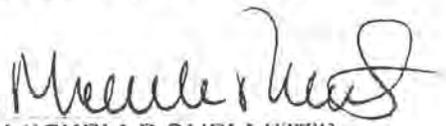
21 **(Against All Respondents and Real Parties in Interest)**

- 22 1. For an award of attorneys' fees incurred in this matter as permitted or required by law.
- 23 (Code Civ. Proc., § 1021.5.);
- 24 2. For RCTC's costs of suit incurred herein; and
- 25 3. For such other and further relief as the Court deems just and proper.
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Dated: September 17, 2015

BEST BEST & KRIEGER LLP

By: 

MICHELLE OUELLETTE
CHARITY SCHILLER
ANDREW M. SKANCHY
Attorneys for Petitioner Plaintiff
Riverside County Transportation
Commission

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EXHIBIT A



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September 17, 2015

VIA FIRST CLASS MAIL

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

Re: Notice of Commencement of Action

Dear Ms. Halstead:

On behalf of our client, the Riverside County Transportation Commission (the "RCTC"), please take notice, pursuant to Public Resources Code section 21167.5, that the RCTC is commencing an action against the City of Moreno Valley (the "City") by filing a Petition for Writ of Mandate in the Superior Court of California, County of Riverside.

The Petition challenges the following approvals of the World Logistics Center Project by the City and the Moreno Valley Community Services District:

1. Resolution No. 2015-56 certifying the Final Environmental Impact Report (P12-016), adopting Findings and Statement of Overriding Considerations and approving the Mitigation Monitoring Program for the World Logistics Center Project;
2. Resolution No. 2015-57 approving General Plan Amendments (PA12-0010), including land use changes for property within the World Logistics Center Specific Plan Area to business park/light industrial (BP) and open space (OS), properties outside of the World Logistics Center Specific Plan to open space (OS) and corresponding General Plan element goals and objectives text and map amendments to the community development, circulation, parks, recreation and open space, safety and conservation elements;
3. Resolution No. 2015-58 approving PA12-0015 (Tentative Parcel Map No. 36457) for the purposes of establishing 26 parcels for financing and conveyance purposes, including an 85 acre parcel of land currently located in the County of Riverside adjacent to Gilman Springs Road and Alessandro Boulevard and which is included in the World Logistics Center Specific Plan;



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ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 17, 2015
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4. Resolution No. 2015-59 requesting the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the City boundary for approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard (APN Nos. 422-130-002 and 422-130-003);

5. Resolution No. 2015-29 to request the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the Community Services District boundary to include approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard in conjunction with a related annexation (APN Nos. 422-130-002 and 422-130-003);

6. Ordinance No. 900 approving PA12-0012 (change of zone), PA12-0013 (Specific Plan) and PA12-0014 (pre-zoning/annexation), which include the proposed World Logistics Center Specific Plan, a full repeal of the Moreno Highlands Specific Plan No. 212-1, pre-zoning/annexation for 85 acres at northwest corner of Gilman Springs Road and Alessandro Boulevard, change of zone to logistics development (LD), light logistics (LL) and open space (OS) for areas within the proposed World Logistics Center Specific Plan boundary, and a change of zone to open space (OS) for those project areas outside and southerly of the proposed World Logistics Center Specific Plan boundary; and

7. Ordinance No. 901 approving PA12-0011 (Development Agreement) for the World Logistics Center Project which real estate Highland Fairview has legal or equitable interest in, on approximately 2,263 acres, within the World Logistics Specific Plan area (2,610 acres), intended to be developed as high cube logistics warehouse and related ancillary uses generally east of Redlands Boulevard, South of State Route 60, West of Gilman Springs Road and North of the San Jacinto Wildlife area.

The grounds for RCTC's Petition is that the City failed to comply with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

Sincerely,

Michelle Ouellette
of BEST BEST & KRIEGER LLP

MO:tl

cc: Anne Mayer, Executive Director,
Riverside County Transportation Commission



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 17, 2015
Page 3

PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is 3390 University Avenue, 5th Floor, P.O. Box 1028, Riverside, California 92502. On September 17, 2015, I served the following document(s):

NOTICE OF COMMENCEMENT OF ACTION

- By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
- By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):
- Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - Placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Riverside, California.

- By personal service.** At ____ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.

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10 Attorneys for Petitioner/Plaintiff
11 RIVERSIDE COUNTY TRANSPORTATION
12 COMMISSION

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF RIVERSIDE

15 RIVERSIDE COUNTY TRANSPORTATION
16 COMMISSION, a public agency,

17 Petitioner/Plaintiff,

18 v.

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

25 Respondents/Defendants.

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

Real Parties in Interest.

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 17 2015

R. Alessandro

RIC 1511130

Case No.

(California Environmental Quality Act)

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

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

[Deemed Verified Pursuant to Code of
Civ. Proc., § 446]

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1 Petitioner RIVERSIDE COUNTY TRANSPORTATION COMMISSION (Petitioner and
2 Plaintiff or RCTC) alleges as follows:

3
4 **INTRODUCTION**

5 1. This action involves the City of Moreno Valley's (Moreno Valley, or Respondent
6 and Defendant) decision to approve the World Logistics Center project (Project) and certify the
7 accompanying Environmental Impact Report (EIR). The Project covers 3,818 acres in eastern
8 Moreno Valley in Riverside County south of SR-60, between Redlands Boulevard and Gilman
9 Springs Road, extending to the southern boundary of Moreno Valley. The Project area includes
10 open space and 2,610 acres for the development of up to 40,600,000 square feet of logistics
11 warehouses and ancillary uses. As explained in the EIR, the Project, at full build-out, will add
12 68,721 vehicles to area roadways every day (the passenger car equivalent of 89,975 surface street
13 trips and 75,724 freeway trips per day).

14 2. Moreno Valley certified the Project EIR via Moreno Valley City Council (City
15 Council or Council) Resolution No. 2015-56, and approved the Project via Council's approval of
16 Resolution No. 2015-57, which approved General Plan Amendment (PA12-0010); Resolution No.
17 2015-58, which approved Tentative Parcel Map No. 36457 (PA12-0013); Resolution 2015-59,
18 which requested that the Riverside County Local Agency Formation Commission (LAFCO)
19 initiate proceedings for the expansion of Moreno Valley boundaries; Ordinance No. 900, which
20 approved Change of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and
21 Prezoning/Annexation (PA12-0014); and Ordinance No. 901, which approved a Development
22 Agreement (PA12-0011) ; and via the Moreno Valley Community Services District's (CSD)
23 approval of Resolution CSD 2015-29, which requested that LAFCO initiate proceedings for the
24 expansion of the CSD's boundary in conjunction with the related annexation requested by the
25 City Council.

26 3. Through this lawsuit, RCTC seeks to enforce the provisions of CEQA as they
27 apply to the Project. The maintenance and prosecution of this action will confer a substantial
28 benefit on the public by ensuring full compliance with the requirements of CEQA, a public-

1 disclosure statute, and by protecting the public from the unanalyzed potential environmental
2 harms, unmitigated environmental impacts and lack of adoption of all feasible mitigation
3 measures as alleged in this Petition and Complaint.

4 **THE PARTIES**

5 4. Petitioner and Plaintiff, RCTC, is, and at all relevant times was, a county
6 transportation commission created by California Public Utilities Code section 130050, located in
7 the County of Riverside, California. RCTC is governed by a 34-member Commission that
8 includes a mayor or council member from each of Riverside County's cities, all five members of
9 the Riverside County Board of Supervisors, and a non-voting appointee of the Governor. RCTC
10 is charged with planning and implementing transportation and transit improvements in Riverside
11 County in a manner that protects the public health, safety, welfare, and environment of Riverside
12 County.

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

22 6. Petitioner and Plaintiff is informed and believes, and on that basis alleges, that
23 Respondent CSD is a governmental body within Moreno Valley, established pursuant to the
24 Community Services District Law (Cal. Gov. Code section 61000 et seq.). CSD is a dependent
25 special district of Moreno Valley, and the Moreno Valley City Council serves as the Board of
26 Directors of the CSD. CSD has responsibility for certain funding mechanisms and services within
27 the territory of Moreno Valley. CSD, its staff, and contractors and consultants working under its
28 control and direction, approved a resolution, which was supported by the EIR's analysis,

1 furthering the Project.

2 7. Petitioner is informed and believes and on that basis alleges that Highland
3 Fairview is a Real Party in Interest insofar as the Notices of Determination that Moreno Valley
4 prepared and filed with the Riverside County Clerk on August 20, 2015, and August 26, 2015,
5 following certification of the EIR and approval of the Project, identified Highland Fairview as the
6 applicant for the Project that is the subject of this proceeding.

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

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

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

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

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

27 13. Petitioner is informed and believes and on that basis alleges that the HL Property
28 Partners, a Delaware general partnership, is a Real Party in Interest insofar as it is listed as the

1 owner and developer of the property and the applicant for the Project that is the subject of this
2 proceeding or has some other cognizable interest in the Project.

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

12 JURISDICTION

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

17 VENUE

18 16. The Superior Court of the County of Riverside is the proper venue for this action.
19 The Project at issue and the property it concerns are located within the County of Riverside.
20 RCTC's members and Moreno Valley are located wholly within the County of Riverside.

21 STANDING

22 17. RCTC and those it represents will be directly and adversely affected by Moreno
23 Valley's actions in certifying the EIR and approving the Project. RCTC has no plain, speedy, and
24 adequate remedy in the ordinary course of law in that RCTC, its members, and the public will
25 suffer irreparable harm if the Project is implemented.

26 18. As recognized in the EIR, the Project will have significant impacts on
27 transportation and traffic in Riverside County. Accordingly, any action which permits the Project
28 to go forward without disclosing, analyzing, and mitigating the Project's impacts in the EIR

1 regarding transportation and traffic, is one in which RCTC, the public agency charged with
2 planning and implementing transportation and transit improvements in Riverside County, has a
3 beneficial interest. RCTC objected to Moreno Valley's approval of the Project and requested that
4 Moreno Valley comply with CEQA. RCTC, other agencies, organizations and individuals raised
5 or affirmed each of the legal deficiencies asserted in this Petition and Complaint orally or in
6 writing prior to Moreno Valley's approval of the Project and adoption of the EIR.

7 19. RCTC seeks to promote and enforce the informational purposes of CEQA in this
8 action, which purposes are defeated by Moreno Valley's approval of the Project without
9 sufficient or accurate information, analysis or mitigation. Ascertaining the facts about the
10 environmental impacts of projects and disclosing those facts to decision-makers and the public
11 are purposes that are within the zone of interests CEQA was intended to protect.

12 20. Moreno Valley has a mandatory and public duty to comply with CEQA and all
13 other applicable laws when adopting the EIR and approving the Project. The issues in this action
14 under CEQA are issues of public right, and the object of the action is to enforce public duties in
15 the public interest. RCTC has had to employ attorneys to bring this litigation. Furthermore,
16 RCTC has incurred and will incur substantial attorneys' fees and litigation costs because of
17 Respondents' unlawful acts. This litigation, if successful, will result in enforcement of important
18 rights affecting the public interest. Such enforcement will confer a significant benefit on a large
19 class of persons. RCTC is entitled to be reimbursed for its attorneys' fees and costs because it is
20 functioning as a private attorney general pursuant to section Code of Civil Procedure section
21 1021.5.

22 21. Respondents and Real Parties in Interest are threatening to proceed with the
23 Project in the near future. Implementation of the Project will irreparably harm the environment in
24 that the Project will significantly increase traffic congestion and associated impacts on the
25 environment. RCTC has no plain, speedy, or adequate remedy at law, and, unless a stay,
26 preliminary injunction, temporary restraining order and injunction, or permanent injunction is
27 issued that restrains Respondents and Real Parties in Interest from proceeding with the Project,
28 RCTC will be unable to enforce its rights under CEQA, which prohibits Moreno Valley's

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1 approval of the Project.

2 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

3 22. This action is brought consistent with the requirements of Public Resources Code
4 section 21177 and Code of Civil Procedure sections 1085 and 1094.5. RCTC has exhausted all
5 available administrative remedies by objecting to Moreno Valley's approval of the Project prior
6 to Moreno Valley's certification of the EIR and approval of the Project and requesting that
7 Moreno Valley comply with CEQA. RCTC, other agencies, organizations, or individuals raised
8 or affirmed each of the legal deficiencies asserted in this Petition and Complaint orally or in
9 writing prior to Moreno Valley's adoption of the EIR and approval of the Project.

10 23. RCTC has complied with Public Resources Code section 21167.5 by prior
11 provision of notice to Moreno Valley indicating its intent to commence this action. The notice
12 and proof of service are attached hereto as Exhibit A.

13 24. Pursuant to Public Resources Code section 21167.7, RCTC has concurrently
14 provided a copy of this Petition and Complaint to the California Attorney General.

15 25. This lawsuit has been commenced within the time limits imposed for this action
16 under the Code of Civil Procedure and the Public Resources Code.

17 **THE PROJECT**

18 26. RCTC seeks issuance of a writ of mandate ordering Moreno Valley to vacate and
19 set aside its approvals of the Project.

20 27. As stated in the EIR, on or about February 26, 2012, Moreno Valley issued a
21 Notice of Preparation (NOP) to notify state agencies and the public that an EIR was going to be
22 prepared for the Project. During the NOP review period, Moreno Valley received responses from
23 many organizations and individuals, many of which expressed concerns about the Project's
24 significant size and likely impact on transportation and traffic.

25 28. RCTC is informed and believes that the Draft EIR was circulated for public review
26 on or about February 5, 2013, until approximately April 8, 2013.

27 29. During the Draft EIR's public review period, numerous commenters, including the
28 California Department of Transportation (Caltrans) and the Riverside County Transportation and

1 Land Management Agency (TLMA), submitted comments regarding inadequacies in the Draft
2 EIR's transportation and traffic analysis, including potentially unmitigated and significant
3 transportation and traffic impacts.

4 30. The Final EIR was released to the public in or about May of 2015.

5 31. In early June of 2015, prior to the Moreno Valley Planning Commission's
6 consideration of the EIR and Project, Caltrans, TLMA, RCTC, and others submitted letters to
7 Moreno Valley identifying outstanding deficiencies in the EIR, including transportation and
8 traffic issues. RCTC submitted a comment letter dated June 9, 2015.

9 32. Moreno Valley responded to these comment letters on June 10, 2015.

10 33. After a series of meetings held on June 11, 2015, and June 25, 2015, the Moreno
11 Valley Planning Commission recommended that the City Council certify the EIR and approve the
12 Project.

13 34. In August of 2015, prior to the City Council's consideration of the EIR and
14 Project, RCTC and others submitted additional letters to Moreno Valley reiterating the EIR's
15 deficiencies and explaining how Moreno Valley's June 10, 2015 responses failed to address the
16 inadequacies in the EIR's transportation and traffic analysis, including unmitigated and
17 significant transportation and traffic impacts.

18 35. RCTC is informed and believes, and on that basis alleges, that other comment
19 letters were also received by Moreno Valley, prior to certification of the EIR and approval of the
20 Project, that identified deficiencies in the EIR.

21 36. On or about August 19, 2015, the City Council held an initial public hearing on the
22 EIR and Project. After closing the public hearing, the City Council voted to adopt Resolution No.
23 2015-56 certifying the EIR. On or around the same date, the City Council also adopted the
24 following resolutions approving the Project: Resolution No. 2015-57, which approved General
25 Plan Amendment (PA12-0010); Resolution No. 2015-58, which approved Tentative Parcel Map
26 No. 36457 (PA12-0013); and Resolution 2015-59, which requested that I.AFCO initiate
27 proceedings for the expansion of Moreno Valley's boundaries. On or around the same date, the
28 City Council also introduced the following ordinances for first reading: Ordinance No. 900,

1 approving Change of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and
2 Rezoning Annexation (PA12-0014); and Ordinance No. 901, approving a Development
3 Agreement (PA12-0011).

4 37. Also on or about August 19, 2015, the CSD approved Resolution CSD 2015-29,
5 which requested that LAFCO initiate proceedings for the expansion of CSD's boundaries in
6 conjunction with the related annexation requested by the City Council.

7 38. On or about August 20, 2015, Moreno Valley filed a Notice of Determination
8 purporting to reflect its approval of a General Plan Amendment (PA12-0010), Development
9 Agreement (PA12-0011), Change of Zone (PA12-0012), Specific Plan (PA12-0013), Annexation
10 (PA12-0014), Tentative Parcel No. 36457 (PA12-0015), and an Environmental Impact Report
11 (P12-016) for the Project.

12 39. In conflict with the representations in the August 20, 2015 Notice of
13 Determination, the City Council held a meeting on August 25, 2015, whereat the City Council, on
14 second reading, adopted Ordinance No. 900, approving Change of Zone (PA12-0012), Specific
15 Plan Amendment (PA12-0013) and Rezoning/Annexation (PA12-0014); and Ordinance No. 901,
16 approving a Development Agreement (PA12-0011).

17 40. On or about August 26, 2015, Moreno Valley filed another Notice of
18 Determination, purporting to reflect its approval of Resolution No. 2015-57, which approved
19 General Plan Amendment (PA12-0010); Resolution No. 2015-58, which approved Tentative
20 Parcel Map No. 36457 (PA12-0013); Resolution 2015-59, which requested that LAFCO initiate
21 proceedings for the expansion of Moreno Valley boundaries; Resolution CSD 2015-29, which
22 requested that LAFCO initiate proceedings for the expansion of the CSD boundary in conjunction
23 with the related annexation requested by the City Council; Ordinance No. 900, approving Change
24 of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and Rezoning Annexation
25 (PA12-0014); and Ordinance No. 901, approving a Development Agreement (PA12-0011). The
26 August 26, 2015 Notice of Determination did not include reference to the City's resolution
27 certifying the EIR.
28

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FIRST CAUSE OF ACTION

(Petition for Writ of Mandate Pursuant to Code Civ. Proc., §§ 1085 and 1094.5 - Violation
of CEQA)

(Against All Respondents and Real Parties in Interest)

41. RCTC incorporates herein by reference paragraphs 1 through 40, above, as though set forth in full.

42. “[T]he legislature intended [CEQA] to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*City of San Diego v. Board of Trustees of the California State University* (2015) 61 Cal.4th 945, 963 [internal punctuation and citation omitted].) When complying with CEQA, a lead agency must proceed in the manner required by law, and its determinations must be supported by substantial evidence. (Pub. Resources Code, § 21168.5.) “CEQA requires a public agency to mitigate or avoid its projects’ significant effects not just on the agency’s own property but on the environment.” (*City of San Diego, supra*, 61 Cal.4th at 957.) “CEQA defines the environment as the physical conditions which exist *within the area which will be affected by a proposed project* and mandates that each public agency shall mitigate or avoid the significant effects *on the environment* of projects that it carries out or approves whenever it is feasible to do so.” (*Id.* at 960 [italics in original, internal quotes and citations omitted].) “An EIR that incorrectly disclaims the power and duty to mitigate identified environmental effects based on erroneous legal assumptions is not sufficient as an informative document, and an agency’s use of an erroneous legal standard constitutes a failure to proceed in a manner required by law.” (*Id.* at 956 [internal citations omitted].)

43. RCTC is informed and believes, and on that basis alleges, that Moreno Valley violated CEQA in numerous ways.

44. Moreno Valley’s failure to comply with CEQA includes, but is not limited to, the following.

a. **Failure to Identify and Adequately Analyze Project Impacts:** An EIR’s conclusions must be supported by substantial evidence in the administrative record. Here, despite

1 Moreno Valley's own statements to the contrary, the EIR failed to fully and properly analyze the
2 potential for the Project to impact the environment. For example, although Section 4.15 of the
3 EIR discusses a traffic study, and admits that the Project will have significant impacts on area
4 roadways, segments, intersections and freeway facilities (Draft EIR, 4.15-222), the traffic study
5 and EIR failed to include discussion of the Project's full impacts on Gilman Springs Road,
6 particularly the segment from Bridge Street to Lambs Canyon/Sanderson. This and other
7 omissions render the EIR's analysis of potential Transportation/Traffic impacts of the Project
8 inadequate under CEQA.

9 b. **Failure to Adopt Adequate Mitigation Measures:** "[E]ach public agency shall
10 mitigate or avoid the significant effects on the environment of projects that it carries out or
11 approves whenever it is feasible to do so." (Pub. Resources Code, § 21002.1(b).) mitigation of a
12 project's impacts can be accomplished by (1) Avoiding the impact by not taking a certain action
13 or parts of the action, (2) Minimizing impacts by limiting an activity; Repairing, rehabilitating, or
14 restoring the affected environment, (3) Reducing or eliminating an impact over time through
15 preservation and maintenance operations, or (4) Compensating for an impact by replacing or
16 providing substitute resources or environments, including the payment of fees to provide
17 mitigation for an impact identified in an EIR. (14 Cal. Code of Regulations (CEQA Guidelines), §
18 15370.) Here, substantial evidence in the record reflects that Moreno Valley failed to adopt
19 adequate mitigation measures. For example the EIR states that the Project will have significant
20 and unavoidable impacts on "Roads Outside the Jurisdiction of the City and Not Part of the
21 TUMF [Transportation Uniform Mitigation Fees] Program" and "TUMF Facilities." (EIR at 1-
22 22.) This lengthy list of significantly-impacted roads includes "all freeway mainline, weaving,
23 and ramp facilities." (EIR at 4.15-239.) The EIR concludes that these impacts are significant and
24 unavoidable because no fair-share program currently exists for numerous roads outside the City's
25 jurisdiction, and "the City cannot guarantee that such a mechanism will be established and [the
26 City] does not have direct control over facilities outside of its jurisdiction." (EIR at 4.15-237.)
27 However, as explained in a comment letter from Caltrans on August 17, 2015:

28 "Nothing in CEQA requires Caltrans to adopt a contribution

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program before fair share payments can be considered adequate mitigation. All that is required is that mitigation be part of a reasonable plan of actual mitigation that the relevant agency commits itself to implementing. Here specific mitigation measures were identified in consultation with Caltrans. Caltrans is willing to commit to work with the City, or other local partners and other developers to secure the funding for and to implement these, or comparable measure's [sic] subject to future CEQA compliance requirements as applicable. If the City prefers additional assurance about how the fair share contributions will be used, reasonable mechanisms exist to provide those assurances, such as traffic mitigation agreements or cooperative agreements.

Unfortunately, the City has not explored those options or consulted with Caltrans regarding any others. Thus the City's take it or leave it condition that Caltrans adopt a contribution plan or no payment is required does not comply with CEQA's mandate that the lead agency include all reasonable mitigation. And the fact that the FEIR did not examine these options demonstrate that the City's conclusion that such mitigation would be infeasible is unsupported by substantial evidence."

This confirms the validity of the traffic concerns expressed by many members of the public and RCTC who commented on the Project, namely that, mitigation was available to reduce the Project's significant impacts to area roads. Moreno Valley's failure to incorporate this mitigation is an abuse of discretion. Further, Moreno Valley's improper rejection of the mitigation is not supported by substantial evidence.

c. **Failure to Adequately Respond to Comments on the Draft EIR:** CEQA requires lead agencies to evaluate comments on the draft EIR and prepare written responses for inclusion in the EIR. (Pub. Resources Code, § 21091(d).) When a significant environmental issue is raised in comments, the response must be detailed and provide a reasoned, good faith analysis. (CEQA Guidelines, § 15088(c).) Caltrans, TLMA, and others provided Moreno Valley with detailed comments as to how to make the Draft EIR's traffic and transportation analysis legally adequate. But Moreno Valley did not sufficiently respond to or incorporate the feasible suggestions proposed by commenters, including potential mitigation measures and areas of analysis that could be improved.

d. **Failure to Adopt Legally Adequate Findings:** When an EIR identifies significant environmental effects that may result from a project, the lead agency must make one or more specific findings for those impacts. (Pub. Resources Code, § 21081; CEQA Guidelines, §

1 15091(a.) Findings of infeasibility must be specific and supported by substantial evidence in the
2 record. (Pub. Resources Code, § 21081.5.) “[I]t is the policy of the state that public agencies
3 should not approve projects as proposed if there are feasible alternatives or feasible mitigation
4 measures available which would substantially lessen the significant environmental effects of such
5 projects.” (Pub. Resources Code, § 21002.) Here, specific and feasible mitigation measures were
6 proposed by RCTC and others to reduce the Project’s significant impacts on transportation and
7 traffic. But Moreno Valley, without incorporating the proposed mitigation measures and without
8 substantial evidence, stated in its findings that the Project’s transportation and traffic impact is
9 “reduced to the extent feasible.” This is a violation of CEQA.

10 e. **Failure to Conduct Sufficient Environmental Review:** Moreno Valley failed to
11 conduct sufficient environmental review for the Project despite the fact that Moreno Valley’s own
12 documentation concedes that the Project has the potential to cause a number of foreseeable direct
13 and indirect potentially significant impacts. The EIR and its process also violate CEQA in
14 numerous other ways due to deficiencies in the EIR’s environmental setting, inadequate
15 disclosure and analysis, inadequate mitigation and failure to address potentially significant
16 impacts. The inadequacies described above and in this paragraph are prejudicial and require
17 Project approvals to be revoked and full environmental review in compliance with CEQA
18 conducted before the Project can proceed.

19 f. **Failure to Adopt an Adequate Statement of Overriding Considerations:**
20 When an agency approves a project with significant environmental effects that will not be
21 avoided or substantially lessened, it must adopt a statement of overriding considerations. (CEQA
22 Guidelines, § 15043.) Moreno Valley failed to adopt a legally adequate Statement of Overriding
23 Considerations in that the overriding considerations are not supported by substantial evidence in
24 the record.

25 45. Moreno Valley thereby violated its duties to comply with CEQA and the CEQA
26 Guidelines. Accordingly, the EIR and Project approvals must be set aside. And RCTC asks this
27 Court for an award of attorney’s fees and costs against Respondents and Real Parties in Interest as
28 permitted or required by law.

- 1 b. To rescind approval of the Project;
- 2 c. To cease, vacate, and set aside all actions related to the authorization, approval,
- 3 and execution of the Project;
- 4 d. To prepare and circulate, in compliance with CEQA and the CEQA Guidelines
- 5 adequate environmental review, prior to any re-approval; and
- 6 e. To prohibit any action by Moreno Valley in furtherance of the Project until
- 7 Respondents comply with the mandates of CEQA.
- 8 2. For a stay, temporary restraining order, preliminary injunction, and permanent injunction
- 9 prohibiting any actions by Moreno Valley or the Real Parties In Interest pursuant to
- 10 Moreno Valley's approval of the Project until Moreno Valley fully complies with all
- 11 requirements of CEQA and all other applicable state and local laws, policies, ordinances,
- 12 and regulations;

13 **ON THE SECOND CAUSE OF ACTION**

14 **(Against All Respondents and Real Parties in Interest)**

- 15 1. That this Court declare Moreno Valley's discretionary approval of the Project in violation
- 16 of CEQA as set forth above.
- 17 2. That this Court declare that Moreno Valley must properly prepare, circulate, and consider
- 18 adequate environmental documentation for the Project in order to meet the requirements
- 19 of CEQA.

20 **ON ALL CAUSES OF ACTION**

21 **(Against All Respondents and Real Parties in Interest)**

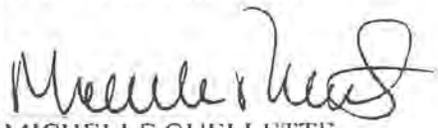
- 22 1. For an award of attorneys' fees incurred in this matter as permitted or required by law.
- 23 (Code Civ. Proc., § 1021.5.);
- 24 2. For RCTC's costs of suit incurred herein; and
- 25 3. For such other and further relief as the Court deems just and proper.
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Dated: September 17, 2015

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By: 

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EXHIBIT A



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September 17, 2015

VIA FIRST CLASS MAIL

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

Re: Notice of Commencement of Action

Dear Ms. Halstead:

On behalf of our client, the Riverside County Transportation Commission (the "RCTC"), please take notice, pursuant to Public Resources Code section 21167.5, that the RCTC is commencing an action against the City of Moreno Valley (the "City") by filing a Petition for Writ of Mandate in the Superior Court of California, County of Riverside.

The Petition challenges the following approvals of the World Logistics Center Project by the City and the Moreno Valley Community Services District:

1. Resolution No. 2015-56 certifying the Final Environmental Impact Report (P12-016), adopting Findings and Statement of Overriding Considerations and approving the Mitigation Monitoring Program for the World Logistics Center Project;
2. Resolution No. 2015-57 approving General Plan Amendments (PA12-0010), including land use changes for property within the World Logistics Center Specific Plan Area to business park/light industrial (BP) and open space (OS), properties outside of the World Logistics Center Specific Plan to open space (OS) and corresponding General Plan element goals and objectives text and map amendments to the community development, circulation, parks, recreation and open space, safety and conservation elements;
3. Resolution No. 2015-58 approving PA12-0015 (Tentative Parcel Map No. 36457) for the purposes of establishing 26 parcels for financing and conveyance purposes, including an 85 acre parcel of land currently located in the County of Riverside adjacent to Gilman Springs Road and Alessandro Boulevard and which is included in the World Logistics Center Specific Plan;



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 17, 2015
Page 2

4. Resolution No. 2015-59 requesting the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the City boundary for approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard (APN Nos. 422-130-002 and 422-130-003);

5. Resolution No. 2015-29 to request the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the Community Services District boundary to include approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard in conjunction with a related annexation (APN Nos. 422-130-002 and 422-130-003);

6. Ordinance No. 900 approving PA12-0012 (change of zone), PA12-0013 (Specific Plan) and PA12-0014 (pre-zoning/annexation), which include the proposed World Logistics Center Specific Plan, a full repeal of the Moreno Highlands Specific Plan No. 212-1, pre-zoning/annexation for 85 acres at northwest corner of Gilman Springs Road and Alessandro Boulevard, change of zone to logistics development (LD), light logistics (LL) and open space (OS) for areas within the proposed World Logistics Center Specific Plan boundary, and a change of zone to open space (OS) for those project areas outside and southerly of the proposed World Logistics Center Specific Plan boundary; and

7. Ordinance No. 901 approving PA12-0011 (Development Agreement) for the World Logistics Center Project which real estate Highland Fairview has legal or equitable interest in, on approximately 2,263 acres, within the World Logistics Specific Plan area (2,610 acres), intended to be developed as high cube logistics warehouse and related ancillary uses generally east of Redlands Boulevard, South of State Route 60, West of Gilman Springs Road and North of the San Jacinto Wildlife area.

The grounds for RCTC's Petition is that the City failed to comply with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

Sincerely,

Michelle Ouellette
of BEST BEST & KRIEGER LLP

MO:tli

cc: Anne Mayer, Executive Director,
Riverside County Transportation Commission



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 17, 2015
Page 3

PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is 3390 University Avenue, 5th Floor, P.O. Box 1028, Riverside, California 92502. On September 17, 2015, I served the following document(s):

NOTICE OF COMMENCEMENT OF ACTION

- By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
- By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):
- Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - Placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Riverside, California.

- By personal service.** At ___ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.



BEST BEST & KRIEGER

ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 17, 2015
Page 4

- By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service for service. A Declaration of Messenger is attached.
- By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- By e-mail or electronic transmission.** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 17, 2015, at Riverside, California.

Monica Castanon

1 MICHELLE OUELLETTE, Bar No. 145191
2 CHARITY SCHILLER, Bar No. 234291
3 ANDREW M. SKANCHY, Bar No. 240461
4 BEST BEST & KRIEGER LLP
5 3390 University Avenue, 5th Floor
6 P.O. Box 1028
7 Riverside, California 92502
8 Telephone: (951) 686-1450
9 Facsimile: (951) 686-3083
10 Attorneys for Petitioner/Plaintiff
11 RIVERSIDE COUNTY TRANSPORTATION
12 COMMISSION

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 17 2015

R. Alessandro

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE **RIC**

1511130

10 RIVERSIDE COUNTY TRANSPORTATION
11 COMMISSION, a public agency,

Case No.

Petitioner/Plaintiff,

**PETITIONER'S ELECTION TO
PREPARE THE ADMINISTRATIVE
RECORD**

v.

(CEQA)

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

Respondents/Defendants.

19 HIGHLAND FAIRVIEW;
20 HIGHLAND FAIRVIEW OPERATING
21 COMPANY, a Delaware general partnership;
22 HF PROPERTIES, a California general
23 partnership;
24 SUNNYMEAD PROPERTIES, a Delaware
25 general partnership;
26 THEODORE PROPERTIES PARTNERS, a
27 Delaware general partnership;
28 13451 THEODORE, LLC, a California limited
liability company;
HL PROPERTY PARTNERS, a Delaware
general partnership;
and ROES 21 - 40 inclusive,

Real Parties in Interest.

17336 00031 19288499 2

PETITIONER'S ELECTION TO PREPARE THE ADMINISTRATIVE RECORD

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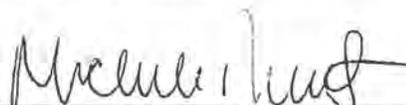
TO RESPONDENT CITY OF MORENO VALLEY:

Pursuant to Public Resources Code § 21167.6, Petitioner Riverside County Transportation Commission ("Petitioner") hereby notifies Respondent City of Moreno Valley of Petitioner's election to prepare the Administrative Record of proceedings relating to this action.

Petitioner therefore requests that Respondent notify Petitioner's attorney of record in writing when the items constituting the administrative record are available for inspection and photocopying. The documents that constitute the administrative record consist of, but are not limited to, all transcripts, minutes of meetings, notices, proofs of publications, mailing lists, correspondence, emails, reports, studies, proposed decisions, final decisions, findings, notices of determination, and any other documents or records relating to Respondent's approval of the World Logistics Center Project (SCH No. 2012021045).

Dated: September 17, 2015

BEST BEST & KRIEGER LLP

By: 
MICHELLE OUELLETTE
CHARITY SCHILLER
ANDREW M. SKANCHY
Attorneys for Petitioner and Plaintiff
Riverside County Transportation
Commission

1 MICHELLE OUELLETTE, Bar No. 145191
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11 RIVERSIDE COUNTY TRANSPORTATION
12 COMMISSION

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF RIVERSIDE

15 RIVERSIDE COUNTY TRANSPORTATION
16 COMMISSION, a public agency,

17 Petitioner/Plaintiff,

18 v.

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

25 Respondents/Defendants.

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

Real Parties in Interest.

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 17 2015

R. Alessandro

RIC 1511130

Case No.

(California Environmental Quality Act)

NOTICE TO ATTORNEY GENERAL
OF CEQA ACTION

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TO THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA:

PLEASE TAKE NOTICE, pursuant to Public Resources Code section 21167.7 and Code of Civil Procedure section 388, that on September 18, 2015, Petitioner and Plaintiff the Riverside County Transportation Commission filed a Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief under the California Environmental Quality Act ("Petition") against Respondents City of Moreno Valley and the Moreno Valley Community Services District (collectively "Respondents"), in the Superior Court of the State of California, County of Riverside.

The Petition alleges that the Respondent City of Moreno Valley violated the California Environmental Quality Act ("CEQA") (Public Resources Code section 21000 et seq.) by certifying the Final Environmental Impact Report for the World Logistics Center Project (State Clearinghouse No. 2012021045) (the "Project"), adopting Findings and Statement of Overriding Considerations and approving the Mitigation Monitoring Program for the Project.

The Petition also alleges that the Respondents' adopting of Resolutions approving the General Plan Amendments, including land use changes to property within the Project area, and initiating proceedings with the Riverside Local Agency Formation Commission for the expansion of the Respondents' boundaries to include approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard, and adopting Ordinances regarding the same were done in violation of CEQA. The City of Moreno Valley is the lead agency responsible under CEQA for evaluating the environmental impacts of the Project. This Project was approved without an adequate or proper environmental review under CEQA.

A copy of the Petition is attached to this notice as Exhibit "A."

Dated: September 17, 2015

BEST BEST & KRIEGER LLP

By: 
MICHELLE OUELLETTE
CHARITY SCHILLER
ANDREW M. SKANCHY
Attorneys for Petitioner and Plaintiff
Riverside County Transportation
Commission

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EXHIBIT "A"

1 MICHELLE OUELLETTE, Bar No. 145191
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10 Attorneys for Petitioner/Plaintiff
11 RIVERSIDE COUNTY TRANSPORTATION
12 COMMISSION

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF RIVERSIDE

15 RIVERSIDE COUNTY TRANSPORTATION
16 COMMISSION, a public agency,

17 Petitioner/Plaintiff,

18 v.

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

25 Respondents/Defendants.

26 HIGHLAND FAIRVIEW;
27 HIGHLAND FAIRVIEW OPERATING
28 COMPANY, a Delaware general partnership;
HF PROPERTIES, a California general
partnership;
SUNNYMEAD PROPERTIES, a Delaware
general partnership;
THEODORE PROPERTIES PARTNERS, a
Delaware general partnership;
13451 THEODORE, LLC, a California limited
liability company;
HL PROPERTY PARTNERS, a Delaware
general partnership; and
ROES 21 – 40 inclusive,

Real Parties in Interest.

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

Case No.

(California Environmental Quality Act)

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

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

[Deemed Verified Pursuant to Code of
Civ. Proc., § 446]

1 disclosure statute, and by protecting the public from the unanalyzed potential environmental
2 harms, unmitigated environmental impacts and lack of adoption of all feasible mitigation
3 measures as alleged in this Petition and Complaint.

4 **THE PARTIES**

5 4. Petitioner and Plaintiff, RCTC, is, and at all relevant times was, a county
6 transportation commission created by California Public Utilities Code section 130050, located in
7 the County of Riverside, California. RCTC is governed by a 34-member Commission that
8 includes a mayor or council member from each of Riverside County's cities, all five members of
9 the Riverside County Board of Supervisors, and a non-voting appointee of the Governor. RCTC
10 is charged with planning and implementing transportation and transit improvements in Riverside
11 County in a manner that protects the public health, safety, welfare, and environment of Riverside
12 County.

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

22 6. Petitioner and Plaintiff is informed and believes, and on that basis alleges, that
23 Respondent CSD is a governmental body within Moreno Valley, established pursuant to the
24 Community Services District Law (Cal. Gov. Code section 61000 et seq.). CSD is a dependent
25 special district of Moreno Valley, and the Moreno Valley City Council serves as the Board of
26 Directors of the CSD. CSD has responsibility for certain funding mechanisms and services within
27 the territory of Moreno Valley. CSD, its staff, and contractors and consultants working under its
28 control and direction, approved a resolution, which was supported by the EIR's analysis,

1 furthering the Project.

2 7. Petitioner is informed and believes and on that basis alleges that Highland
3 Fairview is a Real Party in Interest insofar as the Notices of Determination that Moreno Valley
4 prepared and filed with the Riverside County Clerk on August 20, 2015, and August 26, 2015,
5 following certification of the EIR and approval of the Project, identified Highland Fairview as the
6 applicant for the Project that is the subject of this proceeding.

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

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

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

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

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

27 13. Petitioner is informed and believes and on that basis alleges that the HL Property
28 Partners, a Delaware general partnership, is a Real Party in Interest insofar as it is listed as the

1 owner and developer of the property and the applicant for the Project that is the subject of this
2 proceeding or has some other cognizable interest in the Project.

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

12 JURISDICTION

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

17 VENUE

18 16. The Superior Court of the County of Riverside is the proper venue for this action.
19 The Project at issue and the property it concerns are located within the County of Riverside.
20 RCTC's members and Moreno Valley are located wholly within the County of Riverside.

21 STANDING

22 17. RCTC and those it represents will be directly and adversely affected by Moreno
23 Valley's actions in certifying the EIR and approving the Project. RCTC has no plain, speedy, and
24 adequate remedy in the ordinary course of law in that RCTC, its members, and the public will
25 suffer irreparable harm if the Project is implemented.

26 18. As recognized in the EIR, the Project will have significant impacts on
27 transportation and traffic in Riverside County. Accordingly, any action which permits the Project
28 to go forward without disclosing, analyzing, and mitigating the Project's impacts in the EIR

1 regarding transportation and traffic, is one in which RCTC, the public agency charged with
2 planning and implementing transportation and transit improvements in Riverside County, has a
3 beneficial interest. RCTC objected to Moreno Valley's approval of the Project and requested that
4 Moreno Valley comply with CEQA. RCTC, other agencies, organizations and individuals raised
5 or affirmed each of the legal deficiencies asserted in this Petition and Complaint orally or in
6 writing prior to Moreno Valley's approval of the Project and adoption of the EIR.

7 19. RCTC seeks to promote and enforce the informational purposes of CEQA in this
8 action, which purposes are defeated by Moreno Valley's approval of the Project without
9 sufficient or accurate information, analysis or mitigation. Ascertaining the facts about the
10 environmental impacts of projects and disclosing those facts to decision-makers and the public
11 are purposes that are within the zone of interests CEQA was intended to protect.

12 20. Moreno Valley has a mandatory and public duty to comply with CEQA and all
13 other applicable laws when adopting the EIR and approving the Project. The issues in this action
14 under CEQA are issues of public right, and the object of the action is to enforce public duties in
15 the public interest. RCTC has had to employ attorneys to bring this litigation. Furthermore,
16 RCTC has incurred and will incur substantial attorneys' fees and litigation costs because of
17 Respondents' unlawful acts. This litigation, if successful, will result in enforcement of important
18 rights affecting the public interest. Such enforcement will confer a significant benefit on a large
19 class of persons. RCTC is entitled to be reimbursed for its attorneys' fees and costs because it is
20 functioning as a private attorney general pursuant to section Code of Civil Procedure section
21 1021.5.

22 21. Respondents and Real Parties in Interest are threatening to proceed with the
23 Project in the near future. Implementation of the Project will irreparably harm the environment in
24 that the Project will significantly increase traffic congestion and associated impacts on the
25 environment. RCTC has no plain, speedy, or adequate remedy at law, and, unless a stay,
26 preliminary injunction, temporary restraining order and injunction, or permanent injunction is
27 issued that restrains Respondents and Real Parties in Interest from proceeding with the Project,
28 RCTC will be unable to enforce its rights under CEQA, which prohibits Moreno Valley's

1 approval of the Project.

2 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

3 22. This action is brought consistent with the requirements of Public Resources Code
4 section 21177 and Code of Civil Procedure sections 1085 and 1094.5. RCTC has exhausted all
5 available administrative remedies by objecting to Moreno Valley's approval of the Project prior
6 to Moreno Valley's certification of the EIR and approval of the Project and requesting that
7 Moreno Valley comply with CEQA. RCTC, other agencies, organizations, or individuals raised
8 or affirmed each of the legal deficiencies asserted in this Petition and Complaint orally or in
9 writing prior to Moreno Valley's adoption of the EIR and approval of the Project.

10 23. RCTC has complied with Public Resources Code section 21167.5 by prior
11 provision of notice to Moreno Valley indicating its intent to commence this action. The notice
12 and proof of service are attached hereto as Exhibit A.

13 24. Pursuant to Public Resources Code section 21167.7, RCTC has concurrently
14 provided a copy of this Petition and Complaint to the California Attorney General.

15 25. This lawsuit has been commenced within the time limits imposed for this action
16 under the Code of Civil Procedure and the Public Resources Code.

17 **THE PROJECT**

18 26. RCTC seeks issuance of a writ of mandate ordering Moreno Valley to vacate and
19 set aside its approvals of the Project.

20 27. As stated in the EIR, on or about February 26, 2012, Moreno Valley issued a
21 Notice of Preparation (NOP) to notify state agencies and the public that an EIR was going to be
22 prepared for the Project. During the NOP review period, Moreno Valley received responses from
23 many organizations and individuals, many of which expressed concerns about the Project's
24 significant size and likely impact on transportation and traffic.

25 28. RCTC is informed and believes that the Draft EIR was circulated for public review
26 on or about February 5, 2013, until approximately April 8, 2013.

27 29. During the Draft EIR's public review period, numerous commenters, including the
28 California Department of Transportation (Caltrans) and the Riverside County Transportation and

1 Land Management Agency (TLMA), submitted comments regarding inadequacies in the Draft
2 EIR's transportation and traffic analysis, including potentially unmitigated and significant
3 transportation and traffic impacts.

4 30. The Final EIR was released to the public in or about May of 2015.

5 31. In early June of 2015, prior to the Moreno Valley Planning Commission's
6 consideration of the EIR and Project, Caltrans, TLMA, RCTC, and others submitted letters to
7 Moreno Valley identifying outstanding deficiencies in the EIR, including transportation and
8 traffic issues. RCTC submitted a comment letter dated June 9, 2015.

9 32. Moreno Valley responded to these comment letters on June 10, 2015.

10 33. After a series of meetings held on June 11, 2015, and June 25, 2015, the Moreno
11 Valley Planning Commission recommended that the City Council certify the EIR and approve the
12 Project.

13 34. In August of 2015, prior to the City Council's consideration of the EIR and
14 Project, RCTC and others submitted additional letters to Moreno Valley reiterating the EIR's
15 deficiencies and explaining how Moreno Valley's June 10, 2015 responses failed to address the
16 inadequacies in the EIR's transportation and traffic analysis, including unmitigated and
17 significant transportation and traffic impacts.

18 35. RCTC is informed and believes, and on that basis alleges, that other comment
19 letters were also received by Moreno Valley, prior to certification of the EIR and approval of the
20 Project, that identified deficiencies in the EIR.

21 36. On or about August 19, 2015, the City Council held an initial public hearing on the
22 EIR and Project. After closing the public hearing, the City Council voted to adopt Resolution No.
23 2015-56 certifying the EIR. On or around the same date, the City Council also adopted the
24 following resolutions approving the Project: Resolution No. 2015-57, which approved General
25 Plan Amendment (PA12-0010); Resolution No. 2015-58, which approved Tentative Parcel Map
26 No. 36457 (PA12-0013); and Resolution 2015-59, which requested that LAFCO initiate
27 proceedings for the expansion of Moreno Valley's boundaries. On or around the same date, the
28 City Council also introduced the following ordinances for first reading: Ordinance No. 900,

1 approving Change of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and
2 Rezoning/Annexation (PA12-0014); and Ordinance No. 901, approving a Development
3 Agreement (PA12-0011).

4 37. Also on or about August 19, 2015, the CSD approved Resolution CSD 2015-29,
5 which requested that LAFCO initiate proceedings for the expansion of CSD's boundaries in
6 conjunction with the related annexation requested by the City Council.

7 38. On or about August 20, 2015, Moreno Valley filed a Notice of Determination
8 purporting to reflect its approval of a General Plan Amendment (PA12-0010), Development
9 Agreement (PA12-0011), Change of Zone (PA12-0012), Specific Plan (PA12-0013), Annexation
10 (PA12-0014), Tentative Parcel No. 36457 (PA12-0015), and an Environmental Impact Report
11 (P12-016) for the Project.

12 39. In conflict with the representations in the August 20, 2015 Notice of
13 Determination, the City Council held a meeting on August 25, 2015, whereat the City Council, on
14 second reading, adopted Ordinance No. 900, approving Change of Zone (PA12-0012), Specific
15 Plan Amendment (PA12-0013) and Rezoning/Annexation (PA12-0014); and Ordinance No. 901,
16 approving a Development Agreement (PA12-0011).

17 40. On or about August 26, 2015, Moreno Valley filed another Notice of
18 Determination, purporting to reflect its approval of Resolution No. 2015-57, which approved
19 General Plan Amendment (PA12-0010); Resolution No. 2015-58, which approved Tentative
20 Parcel Map No. 36457 (PA12-0013); Resolution 2015-59, which requested that LAFCO initiate
21 proceedings for the expansion of Moreno Valley boundaries; Resolution CSD 2015-29, which
22 requested that LAFCO initiate proceedings for the expansion of the CSD boundary in conjunction
23 with the related annexation requested by the City Council; Ordinance No. 900, approving Change
24 of Zone (PA12-0012), Specific Plan Amendment (PA12-0013) and Rezoning/Annexation
25 (PA12-0014); and Ordinance No. 901, approving a Development Agreement (PA12-0011). The
26 August 26, 2015 Notice of Determination did not include reference to the City's resolution
27 certifying the EIR.

28 ///

1 FIRST CAUSE OF ACTION

2 (Petition for Writ of Mandate Pursuant to Code Civ. Proc., §§ 1085 and 1094.5 - Violation
3 of CEQA)

4 (Against All Respondents and Real Parties in Interest)

5 41. RCTC incorporates herein by reference paragraphs 1 through 40, above, as though
6 set forth in full.

7 42. “[T]he legislature intended [CEQA] to be interpreted in such manner as to afford
8 the fullest possible protection to the environment within the reasonable scope of the statutory
9 language.” (*City of San Diego v. Board of Trustees of the California State University* (2015) 61
10 Cal.4th 945, 963 [internal punctuation and citation omitted].) When complying with CEQA, a
11 lead agency must proceed in the manner required by law, and its determinations must be
12 supported by substantial evidence. (Pub. Resources Code, § 21168.5.) “CEQA requires a public
13 agency to mitigate or avoid its projects’ significant effects not just on the agency’s own property
14 but on the environment.” (*City of San Diego, supra*, 61 Cal.4th at 957.) “CEQA defines the
15 environment as the physical conditions which exist *within the area which will be affected by a*
16 *proposed project* and mandates that each public agency shall mitigate or avoid the significant
17 effects *on the environment* of projects that it carries out or approves whenever it is feasible to do
18 so.” (*Id.* at 960 [italics in original, internal quotes and citations omitted].) “An EIR that
19 incorrectly disclaims the power and duty to mitigate identified environmental effects based on
20 erroneous legal assumptions is not sufficient as an informative document, and an agency’s use of
21 an erroneous legal standard constitutes a failure to proceed in a manner required by law.” (*Id.* at
22 956 [internal citations omitted].)

23 43. RCTC is informed and believes, and on that basis alleges, that Moreno Valley
24 violated CEQA in numerous ways.

25 44. Moreno Valley’s failure to comply with CEQA includes, but is not limited to, the
26 following:

27 a. **Failure to Identify and Adequately Analyze Project Impacts:** An EIR’s
28 conclusions must be supported by substantial evidence in the administrative record. Here, despite

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1 Moreno Valley's own statements to the contrary, the EIR failed to fully and properly analyze the
2 potential for the Project to impact the environment. For example, although Section 4.15 of the
3 EIR discusses a traffic study, and admits that the Project will have significant impacts on area
4 roadways, segments, intersections and freeway facilities (Draft EIR, 4.15-222), the traffic study
5 and EIR failed to include discussion of the Project's full impacts on Gilman Springs Road,
6 particularly the segment from Bridge Street to Lambs Canyon/Sanderson. This and other
7 omissions render the EIR's analysis of potential Transportation/Traffic impacts of the Project
8 inadequate under CEQA.

9 b. **Failure to Adopt Adequate Mitigation Measures:** "[E]ach public agency shall
10 mitigate or avoid the significant effects on the environment of projects that it carries out or
11 approves whenever it is feasible to do so." (Pub. Resources Code, § 21002.1(b).) mitigation of a
12 project's impacts can be accomplished by (1) Avoiding the impact by not taking a certain action
13 or parts of the action, (2) Minimizing impacts by limiting an activity; Repairing, rehabilitating, or
14 restoring the affected environment, (3) Reducing or eliminating an impact over time through
15 preservation and maintenance operations, or (4) Compensating for an impact by replacing or
16 providing substitute resources or environments, including the payment of fees to provide
17 mitigation for an impact identified in an EIR. (14 Cal. Code of Regulations (CEQA Guidelines), §
18 15370.) Here, substantial evidence in the record reflects that Moreno Valley failed to adopt
19 adequate mitigation measures. For example the EIR states that the Project will have significant
20 and unavoidable impacts on "Roads Outside the Jurisdiction of the City and Not Part of the
21 TUMF [Transportation Uniform Mitigation Fees] Program" and "TUMF Facilities." (EIR at 1-
22 22.) This lengthy list of significantly-impacted roads includes "all freeway mainline, weaving,
23 and ramp facilities." (EIR at 4.15-239.) The EIR concludes that these impacts are significant and
24 unavoidable because no fair-share program currently exists for numerous roads outside the City's
25 jurisdiction, and "the City cannot guarantee that such a mechanism will be established and [the
26 City] does not have direct control over facilities outside of its jurisdiction." (EIR at 4.15-237.)
27 However, as explained in a comment letter from Caltrans on August 17, 2015:

28 "Nothing in CEQA requires Caltrans to adopt a contribution

1 program before fair share payments can be considered adequate
2 mitigation. All that is required is that mitigation be part of a
3 reasonable plan of actual mitigation that the relevant agency
4 commits itself to implementing. Here specific mitigation measures
5 were identified in consultation with Caltrans. Caltrans is willing to
6 commit to work with the City, or other local partners and other
7 developers to secure the funding for and to implement these, or
8 comparable measure's [sic] subject to future CEQA compliance
9 requirements as applicable. If the City prefers additional assurance
10 about how the fair share contributions will be used, reasonable
11 mechanisms exist to provide those assurances, such as traffic
12 mitigation agreements or cooperative agreements.

13 Unfortunately, the City has not explored those options or consulted
14 with Caltrans regarding any others. Thus the City's take it or leave
15 it condition that Caltrans adopt a contribution plan or no payment is
16 required does not comply with CEQA's mandate that the lead
17 agency include all reasonable mitigation. And the fact that the FEIR
18 did not examine these options demonstrate that the City's
19 conclusion that such mitigation would be infeasible is unsupported
20 by substantial evidence."

21 This confirms the validity of the traffic concerns expressed by many members of the public and
22 RCTC who commented on the Project, namely that, mitigation was available to reduce the
23 Project's significant impacts to area roads. Moreno Valley's failure to incorporate this mitigation
24 is an abuse of discretion. Further, Moreno Valley's improper rejection of the mitigation is not
25 supported by substantial evidence.

26 **c. Failure to Adequately Respond to Comments on the Draft EIR: CEQA**
27 requires lead agencies to evaluate comments on the draft EIR and prepare written responses for
28 inclusion in the EIR. (Pub. Resources Code, § 21091(d).) When a significant environmental issue
is raised in comments, the response must be detailed and provide a reasoned, good faith analysis.
(CEQA Guidelines, § 15088(c).) Caltrans, TLMA, and others provided Moreno Valley with
detailed comments as to how to make the Draft EIR's traffic and transportation analysis legally
adequate. But Moreno Valley did not sufficiently respond to or incorporate the feasible
suggestions proposed by commenters, including potential mitigation measures and areas of
analysis that could be improved.

d. Failure to Adopt Legally Adequate Findings: When an EIR identifies
significant environmental effects that may result from a project, the lead agency must make one
or more specific findings for those impacts. (Pub. Resources Code, § 21081; CEQA Guidelines, §

1 15091(a.) Findings of infeasibility must be specific and supported by substantial evidence in the
2 record. (Pub. Resources Code, § 21081.5.) “[I]t is the policy of the state that public agencies
3 should not approve projects as proposed if there are feasible alternatives or feasible mitigation
4 measures available which would substantially lessen the significant environmental effects of such
5 projects.” (Pub. Resources Code, § 21002.) Here, specific and feasible mitigation measures were
6 proposed by RCTC and others to reduce the Project's significant impacts on transportation and
7 traffic. But Moreno Valley, without incorporating the proposed mitigation measures and without
8 substantial evidence, stated in its findings that the Project's transportation and traffic impact is
9 “reduced to the extent feasible.” This is a violation of CEQA.

10 e. **Failure to Conduct Sufficient Environmental Review:** Moreno Valley failed to
11 conduct sufficient environmental review for the Project despite the fact that Moreno Valley's own
12 documentation concedes that the Project has the potential to cause a number of foreseeable direct
13 and indirect potentially significant impacts. The EIR and its process also violate CEQA in
14 numerous other ways due to deficiencies in the EIR's environmental setting, inadequate
15 disclosure and analysis, inadequate mitigation and failure to address potentially significant
16 impacts. The inadequacies described above and in this paragraph are prejudicial and require
17 Project approvals to be revoked and full environmental review in compliance with CEQA
18 conducted before the Project can proceed.

19 f. **Failure to Adopt an Adequate Statement of Overriding Considerations:**
20 When an agency approves a project with significant environmental effects that will not be
21 avoided or substantially lessened, it must adopt a statement of overriding considerations. (CEQA
22 Guidelines, § 15043.) Moreno Valley failed to adopt a legally adequate Statement of Overriding
23 Considerations in that the overriding considerations are not supported by substantial evidence in
24 the record.

25 45. Moreno Valley thereby violated its duties to comply with CEQA and the CEQA
26 Guidelines. Accordingly, the EIR and Project approvals must be set aside. And RCTC asks this
27 Court for an award of attorney's fees and costs against Respondents and Real Parties in Interest as
28 permitted or required by law.

- 1 b. To rescind approval of the Project;
- 2 c. To cease, vacate, and set aside all actions related to the authorization, approval,
- 3 and execution of the Project;
- 4 d. To prepare and circulate, in compliance with CEQA and the CEQA Guidelines
- 5 adequate environmental review, prior to any re-approval; and
- 6 e. To prohibit any action by Moreno Valley in furtherance of the Project until
- 7 Respondents comply with the mandates of CEQA.
- 8 2. For a stay, temporary restraining order, preliminary injunction, and permanent injunction
- 9 prohibiting any actions by Moreno Valley or the Real Parties In Interest pursuant to
- 10 Moreno Valley's approval of the Project until Moreno Valley fully complies with all
- 11 requirements of CEQA and all other applicable state and local laws, policies, ordinances,
- 12 and regulations;

13 **ON THE SECOND CAUSE OF ACTION**

14 **(Against All Respondents and Real Parties in Interest)**

- 15 1. That this Court declare Moreno Valley's discretionary approval of the Project in violation
- 16 of CEQA as set forth above.
- 17 2. That this Court declare that Moreno Valley must properly prepare, circulate, and consider
- 18 adequate environmental documentation for the Project in order to meet the requirements
- 19 of CEQA.

20 **ON ALL CAUSES OF ACTION**

21 **(Against All Respondents and Real Parties in Interest)**

- 22 1. For an award of attorneys' fees incurred in this matter as permitted or required by law.
- 23 (Code Civ. Proc., § 1021.5.);
- 24 2. For RCTC's costs of suit incurred herein; and
- 25 3. For such other and further relief as the Court deems just and proper.
- 26
- 27
- 28

1 Dated: September 17, 2015

BEST BEST & KRIEGER LLP

2
3 By: 

4 MICHELLE OUELLETTE
5 CHARITY SCHILLER
6 ANDREW M. SKANCHY
7 Attorneys for Petitioner/Plaintiff
8 Riverside County Transportation
9 Commission

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EXHIBIT A



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File No. 26506.00036

September 17, 2015

VIA FIRST CLASS MAIL

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

Re: Notice of Commencement of Action

Dear Ms. Halstead:

On behalf of our client, the Riverside County Transportation Commission (the "RCTC"), please take notice, pursuant to Public Resources Code section 21167.5, that the RCTC is commencing an action against the City of Moreno Valley (the "City") by filing a Petition for Writ of Mandate in the Superior Court of California, County of Riverside.

The Petition challenges the following approvals of the World Logistics Center Project by the City and the Moreno Valley Community Services District:

1. Resolution No. 2015-56 certifying the Final Environmental Impact Report (P12-016), adopting Findings and Statement of Overriding Considerations and approving the Mitigation Monitoring Program for the World Logistics Center Project;

2. Resolution No. 2015-57 approving General Plan Amendments (PA12-0010), including land use changes for property within the World Logistics Center Specific Plan Area to business park/light industrial (BP) and open space (OS), properties outside of the World Logistics Center Specific Plan to open space (OS) and corresponding General Plan element goals and objectives text and map amendments to the community development, circulation, parks, recreation and open space, safety and conservation elements;

3. Resolution No. 2015-58 approving PA12-0015 (Tentative Parcel Map No. 36457) for the purposes of establishing 26 parcels for financing and conveyance purposes, including an 85 acre parcel of land currently located in the County of Riverside adjacent to Gilman Springs Road and Alessandro Boulevard and which is included in the World Logistics Center Specific Plan;



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Jane Halstead, City Clerk
City of Moreno Valley
September 17, 2015
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4. Resolution No. 2015-59 requesting the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the City boundary for approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard (APN Nos. 422-130-002 and 422-130-003);

5. Resolution No. 2015-29 to request the Riverside Local Agency Formation Commission to initiate proceedings for the expansion of the Community Services District boundary to include approximately 85 acres of land located along Gilman Springs Road and Alessandro Boulevard in conjunction with a related annexation (APN Nos. 422-130-002 and 422-130-003);

6. Ordinance No. 900 approving PA12-0012 (change of zone), PA12-0013 (Specific Plan) and PA12-0014 (pre-zoning/annexation), which include the proposed World Logistics Center Specific Plan, a full repeal of the Moreno Highlands Specific Plan No. 212-1, pre-zoning/annexation for 85 acres at northwest corner of Gilman Springs Road and Alessandro Boulevard, change of zone to logistics development (LD), light logistics (LL) and open space (OS) for areas within the proposed World Logistics Center Specific Plan boundary, and a change of zone to open space (OS) for those project areas outside and southerly of the proposed World Logistics Center Specific Plan boundary; and

7. Ordinance No. 901 approving PA12-0011 (Development Agreement) for the World Logistics Center Project which real estate Highland Fairview has legal or equitable interest in, on approximately 2,263 acres, within the World Logistics Specific Plan area (2,610 acres), intended to be developed as high cube logistics warehouse and related ancillary uses generally east of Redlands Boulevard, South of State Route 60, West of Gilman Springs Road and North of the San Jacinto Wildlife area.

The grounds for RCTC's Petition is that the City failed to comply with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

Sincerely,

Michelle Ouellette
of BEST BEST & KRIEGER LLP

MO:tli

cc: Anne Mayer, Executive Director,
Riverside County Transportation Commission



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Jane Halstead, City Clerk
City of Moreno Valley
September 17, 2015
Page 3

PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is 3390 University Avenue, 5th Floor, P.O. Box 1028, Riverside, California 92502. On September 17, 2015, I served the following document(s):

NOTICE OF COMMENCEMENT OF ACTION

- By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
- By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):
- Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - Placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Riverside, California.

- By personal service.** At ____ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

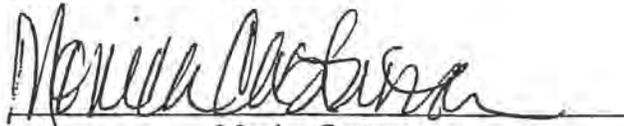
Jane Halstead, City Clerk
City of Moreno Valley
September 17, 2015
Page 4

- By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service for service. A Declaration of Messenger is attached.
- By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- By e-mail or electronic transmission.** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Jane Halstead, City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 17, 2015, at Riverside, California.


Monica Castanon

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

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

NOTICE OF DEPARTMENT ASSIGNMENT

CASE NO. RIC1511130

VS

TO

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

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

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

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

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

CERTIFICATE OF MAILING

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

Court Executive Officer/Clerk

Date 09/17/15

by: _____

RHIANNEN K ALESSANDRO, Deputy Clerk

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

NOTICE OF STATUS CONFERENCE

RIVERSIDE COUNTY TRANSPORTATION COMMISSION VS. CIT

CASE NO. RIC1511130

The Status Conference is scheduled for:

DATE: 11/17/15
TIME: 8:30 a.m.
DEPT: 05

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

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

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

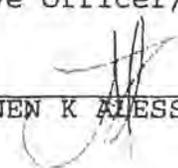
Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See CA Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

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

Dated: 09/17/15

Court Executive Officer/Clerk

By: 
RHIANNEN K ALESSANDRO, Deputy Clerk

ac:stch shw