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VIA E-MAIL AND U.S. MAIL

November 7, 2017

City of Moreno Valley City Council
c/o City Clerk Pat Jacquez-Nares
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P.O. Box 88005
Moreno Valley, California 92522
CityClerk@moval.org

City of Moreno Valley
c/o Ms. Julia Descoteaux, Associate Planner
Community Development Dept.
14177 Frederick Street
P.O. Box 88005
Moreno Valley, California 92552
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RE: City Council Meeting November 7, 2017, Item G.1; Moreno Valley Logistics Center (Specific Plan Amendment P15-036, Tentative Parcel Map PA15-0018, Plot Plan PA15-0014, Plot Plan PA15-0015, Plot Plan PA15-0016, Plot Plan PA15-0017, Final EIR P15-036, Mitigation Monitoring and Reporting Program, Facts, Findings and Statement of Overriding Considerations)

Dear City of Moreno Valley City Council:

On behalf of the Sierra Club and Residents For A Livable Moreno Valley, we again urge you to deny approval of the above-captioned Moreno Valley Logistics Center Project, City Council **Agenda Item G.1**. This Project is deeply flawed and brings significant impacts to its residential neighbors. In particular the applicant's request for a reduced buffer between the industrial and residential uses should be rejected. Regardless of what has been allowed in the past, the City must take care to protect its residents with each new approval.

This letter incorporates by reference our previous written comments on the EIR. As we have commented in the past, the EIR fails to comply with the California Environmental

Quality Act (“CEQA”) in numerous respects. Among other defects in the EIR, there is a faulty project description; there are significant and unmitigated environmental impacts including, but not limited to, air quality, health risk, energy, green house gas emissions, land use, noise, recreation, and traffic; and mitigation measures were improperly rejected without adequate findings in the record. The Final EIR’s responses to our comments and the applicant’s supplemental responses to comments (July 20, 2017) do not cure the EIR’s defects.

Air Quality and GHG Mitigation Measures Are Feasible

There are still a number of available mitigation measures for significant air quality impacts, which have not been demonstrated to be infeasible including by way of the City’s and applicant’s responses to comments, including that:

- Only Tier 4 construction equipment shall be used. The World Logistics Center (“WLC”) has been required through its CEQA mitigation program to use Tier 4 equipment; only if, after a good faith effort to rent Tier 4 equipment has been conducted and has been unsuccessful, then Tier 3 equipment can be used. Also, according to the WLC mitigation program, “[w]ritten verification of the Tier 4 equipment search of three or more qualified rental companies shall be provided to the City verifying the results of the search.” (See attached Exhibit 1.)
- Only electric construction equipment shall be used – not merely used “if feasible”;
- Construction on-road trucks shall be model year 2007 or newer (see Exhibit 1);
- A requirement that all trucks entering the site shall be 2010 model year or newer; not merely that tenants shall be encouraged to meet 2010 model year emission standards. The Project must be require that all heavy duty and medium duty trucks are model year 2010 or newer and trucks that do not meet this standard shall be prohibited from entering the site that do not meet this requirement; and this requirement must be specified in tenant leases and operator contracts, subject to cancellation of leases or contracts if the term is violated. To the extent that model year 2010 trucks are legally required by year 2023, this is feasible measure. (See, ARB website stating regulations)¹ (See, Exhibit 2 hereto [final condition of approval for Sycamore Canyon Business Park – City of Riverside, February 2017].) Project tenants should also be required to keep a log of trucks that enter the site to verify compliance with this provision, subject to inspection and verification by City Staff.

¹ <https://www.arb.ca.gov/msprog/onrdiesel/documents/multirule.pdf>

This hyperlink and all hyperlinks cited herein are fully incorporated by reference.

- Required phase-in of electric, hybrid electric, hydrogen electric, or battery operated (*i.e.*, non-diesel) trucks. Non-diesel trucks are reasonably foreseeable in the commercial market and therefore are feasible within the life of the Project. (*See*, article describing Tesla unveiling electric semi-truck²; *see also*, article entitled “Nikola and Bosch set to battle Tesla with hydrogen-electric truck”³, article describing Toyota working on hydrogen fuel cell semi-trucks⁴). A mitigation measure is feasible if it can be achieved in a reasonable period of time. (CEQA Guidelines § 15364) (*See*, 2013 comments by AQMD regarding AQMD’s opinion that zero emission long-haul trucks are expected to be deployed in the near future.⁵) The Project should at least be required to reevaluate whether some portion of the fleet serving the Project must be zero emission or battery powered in the future. (*See*, article describing AQMD studying and working with manufacturers to develop zero emission Class 8 trucks,⁶ article describing CARB using cap and trade funds to work with manufacturers to “accelerate the market for next generation of clean, heavy-duty trucks and buses, both those that run on electricity and on hydrogen”⁷, article describing Transpower company testing “on road” zero emission trucks.⁸ In fact, zero emission vehicles (ZVE’s) are a priority in California.⁹ The Governor’s 2016 ZEV Action Plan (October 2016) identifies as a priority “Making ZEV technologies commercially viable in targeted applications the medium-duty, heavy-duty, and freight sectors”. *Id.* The Ports of Los Angeles and Long Beach are drafting a new Climate Action Plan which proposes that “[s]tarting in 2018, phase in clean engine standards for new trucks entering port drayage registries followed by a truck rate structure that encourages the use of near-zero and zero emissions trucks, with the goal of transitioning to zero emissions drayage fleet by 2035.”¹⁰ It is not infeasible or impracticable to require the use of alternatively fueled trucks presently or at some reasonable time in the future. The AQMD and CARB both agree that zero emission trucks are the future

² <http://mashable.com/2017/09/14/tesla-semi-truck-launch/#YIUeEqm9faq>

³ <http://mashable.com/2017/09/19/nikola-bosch-hydrogen-electric-development/#X1uV0KLxZiq4>

⁴ <https://www.wired.com/2017/04/toyotas-still-serious-hydrogen-built-semi-prove/>

⁵ <http://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2013/march/southern-california-international-gateway.pdf>

⁶ <http://www.aqmd.gov/home/library/public-information/2016-news-archives/drayage-trucks>

⁷ <https://www.arb.ca.gov/newsrel/newsrelease.php?id=915>

⁸ <http://www.transpowerusa.com/on-road-trucks/>

⁹ http://www.energy.ca.gov/renewables/tracking_progress/documents/electric_vehicle.pdf

¹⁰ <http://www.cleanairactionplan.org/2017-clean-air-action-plan-update/>

and are necessary mitigation measures to go *beyond* the 2010 truck requirement, in order to meet Legislative targets for emission reductions. (See, Exhibits 3 and 4 hereto). CARB’s *Sustainable Freight Pathways to Zero and Near-Zero Emissions Discussion Document* (April 2015) is a helpful resource in this regard. (Exhibit 5 hereto)

- APUs shall not be permitted to idle on site for more than three minutes;
- Adequate facilities shall be provided at all buildings for truck operators such as restrooms, waiting areas, and vending machines.
- All forklifts (indoor and outdoor) shall be electric; this measure has been incorporated on a widespread basis for similar logistics warehouse projects throughout southern California;
- The applicant shall make reasonable efforts to acquire and operate electric yard trucks/goats over the life of the Project. (See, ARB article noting that battery-electric Class 8 yard trucks will operate at facilities in southern California representing “a step toward the commercialization of heavy-duty, advanced, zero-emission technologies” with the deployment “providing a model for truck electrification that could be scaled to any facility”¹¹.) (See also, WLC mitigation program). Additionally, if electric yard trucks are presently infeasible, applicant shall acquire and operate CNG or LNG yard trucks;
- Plug-ins shall be installed at each truck bay to provide plug-ins for trucks not merely for forklifts and similar ancillary equipment;
- All refrigerated trucks/ TRU’s accessing the site must be equipped with electric hookup capabilities;
- The Project must be conditioned to require the use of the electric plug-ins by truck operators;
- The Project should be limited to the number of transport diesel trucks as assumed by the EIR;
- The Project shall be designed to USGB LEED v.4 Silver or better standards. *This will help to mitigate *significant* GHG impacts. The response that the Project will comply with Title 24 is inadequate; the Project must adopt all feasible mitigation measures to address significant Project impacts including air quality and GHG impacts, and it may not simply rely upon compliance with regulations already in place;
- The Project must build and use solar panels to generate enough power to achieve “net zero” meaning that solar panels shall be installed to handle the peak energy demands from each building on site. *This will help to mitigate *significant* GHG impacts. Measure 4.6-1 is inadequate in that there is no requirement to operate

¹¹ <https://www.arb.ca.gov/newsrel/newsrelease.php?id=900>

solar power panels in any capacity, and no requirement as to how much infrastructure must be built to accommodate future solar panels;

- Refrigerated warehouse space must be prohibited unless it is demonstrated that the environmental impacts do not exceed the assumptions of the EIR as to air quality impacts (*see* Exhibit 1);
- A minimum of five electric vehicle (EV) charging stations shall be provided at each building;
- The requirement to meet or exceed Title 24 energy standards shall pertain to the 2016 Title 24 requirements (not 2013 Title 24 standards); and
- The Project shall provide a minimum of 30 parking spaces for alternatively fueled vehicles and these shall be provided nearest to building entrances.

Traffic Mitigation Is Uncertain

Traffic mitigation still has not been shown to be infeasible and claims that certain measures are beyond the applicant's control or are outside the City's jurisdiction are not supported by substantial evidence in the record, nor do they necessarily amount to a finding of "infeasibility." Many of the measures are unenforceable including, for instance, MM 4.11-12 in that it states that the applicant shall use "reasonable efforts" to pay fair share mitigation funds to Caltrans in the event that a fair share fund is established. This does not amount to an enforceable mitigation measure. At the least, the applicant must be required to pay fair share funds when a fund is established; or the City can create a fund and hold those funds for the future. In short, the Findings of Facts do not demonstrate that all available feasible traffic mitigation has been adopted for this Project or that certain measures are truly infeasible.

Alternatives Are Feasible

The "No Project Alternative" which includes the 300-foot setback is a feasible mitigation measure and alternative within the meaning of CEQA. The fact that the Project applicant desires a certain Project design or return on its investment does not translate to a finding of infeasibility. We reiterate our previous comment that CEQA's paramount policy is to "ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions." (Cal. Public Resources Code § 21001.)

Energy Impacts

Lastly, the Final EIR indicates significant energy impacts in terms of Appendix F, contrary to the EIR's conclusions. CEQA Guidelines, § 15126.4 (a)(1)(C) states that, "energy conservation measures ... shall be discussed when appropriate." Guidelines Appendix F provides that "The goal of conserving energy *implies the wise and efficient use of energy*. The means of achieving this goal include: (1) decreasing overall per capita energy consumption; (2) *decreasing* reliance on fossil fuels such as coal, natural gas and oil, and (3) *increasing* reliance on renewable energy sources." (emphasis added)

Appendix F puts "particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy." With respect to the Project, it is estimated that annually it will consume 4,896,551 gallons of fuel and have a demand for 15,535,696 kwh/year of energy. The EIR concludes that impacts are less than significant based on speculation such as the idea that the Project may reduce vehicle miles traveled by locating warehousing closer to building occupants' destinations for goods and services. The Project (a warehouse logistics center) is a fuel-intensive use; there is not substantial evidence to conclude that the Project achieves the goal of "decreasing reliance on fossil fuels." The Project will likely receive goods from the Ports of Long Beach and Los Angeles (more than 70 miles away) and then process (store and sort) those goods for destination in and outside of California. This activity generates significant impacts in terms of fuel consumption. Furthermore, the Project takes no affirmative steps beyond compliance with Title 24 in terms of *increasing* reliance on renewable energy. There is no requirement that the Project utilize solar energy, for example, and MM 4.6-1 does not even specify how much solar infrastructure must be built at the time of construction. Focusing on purported sustainability features and compliance with Title 24 is not adequate in terms of CEQA energy analysis. (See, *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256, 262- 265.)

Conclusion

Thank you for your consideration of these additional comments as you consider the proposed Project.

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Sincerely,

A handwritten signature in black ink that reads "Abigail Smith". The script is cursive and fluid.

Abigail Smith
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Enclosure