



Sent By E-mail

November 3, 2017

Mr. Richard Sandzimier, Planning Official  
City of Moreno Valley Planning Division  
14177 Frederick Street  
Moreno Valley, CA 92553

**RE: RESPONSE TO SIERRA CLUB COMMENT LETTER REGARDING MORENO VALLEY LOGISTICS CENTER EIR (EIR CASE P15-037)**

Dear Mr. Sandzimier:

T&B Planning, Inc. is the environmental consulting firm that prepared the Moreno Valley Logistics Center Environmental Impact Report (EIR) under the direction of the City of Moreno Valley Planning Division. This letter is prepared in response to the September 5, 2017, letter sent to the City by Ms. Abigail Smith on behalf of the Sierra Club and Residents for a Livable Moreno Valley. Numbered responses are provided on the following pages that correspond to each substantive point raised in Ms. Smith's letter (attached hereto, with substantive comments bracketed and numbered for reference).

1. Ms. Smith fails to provide evidence to support her assertion that the Project would result in "significant impacts to its residential neighbors." As described throughout the Final EIR, the Project would not result in any significant environmental effects to nearby residential land uses.

2. The City's CEQA expert, T&B Planning Inc., prepared written responses to Ms. Smith's July 18, 2017, comment letter. The responses from T&B Planning were provided to the City in a letter dated September 1, 2017 (hereafter "Response Letter"). The Response Letter is included in the administrative record. As explained in the Response Letter, there are no changes needed to the analyses contained in the Final EIR. The Final EIR is fundamentally adequate, and all of the conclusions presented in the Final EIR are supported by evidence provided within the Final EIR, its Technical Appendices, and/or the administrative record for the proposed Project.

3. Contrary to Ms. Smith's assertions, the Final EIR includes all mitigation measures that are feasible to implement, have a nexus to the Project's proposal, and are roughly proportional to the Project's level of impact. The mitigation measures suggested by Ms. Smith are addressed below in the same order they are presented in her comment letter.

- Availability of Tier 4 equipment required for the Project's construction cannot be assured by the City or the Project Applicant. A review of data available from the California Air Resources Board's (CARB's) OFFROAD2011 Model shows that heavy-duty, off-road construction equipment meeting Tier 4 emission standards account for only approximately 13% of the statewide fleet. Also, the US EPA has provisions that allow construction fleets to defer converting to Tier 4 requirements until at least 2020 in some instances – further underscoring the lack of available Tier 4 compliant equipment. The Project Applicant contacted several equipment vendors, all of whom confirmed that Tier 4 versions of the equipment needed for the Project's construction are not widely available in southern California. With the low availability of Tier 4-





compliant equipment, it would not be feasible for the City to require all of the Project's construction equipment to meet these requirements. Ms. Smith does not provide any evidence to support the assertion that the Project's entire construction fleet could be comprised of Tier 4 equipment.

- Per Mitigation Measure, 4.3-3, the Project is required to utilize electric-powered construction equipment in-lieu of gasoline-powered equipment *where technically feasible (emphasis added)*. Ms. Smith does not provide evidence demonstrating that it is technically feasible to perform all required construction activities with electric-powered construction equipment.
- By January 1, 2023, all heavy-duty trucks in California will need to have 2010 model year engines or equivalent. However, as described in detail in the report titled *Assessment of 2010 Truck Engine Standards* prepared by Urban Crossroads, Inc. and included in the public record, only approximately 50 percent of the trucks operating in the southern California region have 2010 model year engines or equivalent. If the Project is approved, it is expected to be operational within two years – at least four years before the statewide diesel fleet is required to meet 2010 standards. Because of the relative lack of trucks on the road today, and into the near future, with diesel engines that meet 2010 standards and because the Applicant will not have control over the business and fleet operations of their tenants (and their tenants' subcontractors), the City determined that it is not feasible to restrict access to the Project to only trucks that meet 2010 standards.
- This comment is addressed in detail in the Final EIR (refer to Response C-15, beginning on Page FEIR-19. Ms. Smith presupposes that the technology for zero-emission or battery powered heavy-duty trucks will make numerous advances (e.g., improvements in vehicle range, reducing the time to charge vehicles) and that these trucks will be preferred by commercial fleets – both of these assumptions are highly speculative.
- Current California law allows continuous idling for up to five (5) minutes. The Project goes above-and-beyond current law and restricts continuous idling on-site to three (3) minutes (refer to Mitigation Measures 4.3-4 and 4.3-11). Furthermore, any Project building that contains refrigerated storage is required to provide electric hook-ups for delivery trucks at loading docks (refer to Mitigation Measure 4.3-18). The mitigation measures already included in the Final EIR would prevent excessive idling at the Project site.
- Ms. Smith does not provide substantial evidence that demonstrates that supplies of electric forklifts and yard goats are commercially available to serve the Project or use of this equipment can fulfil the operational requirements of the types of tenants that could occupy the Project's buildings. To facilitate the future implementation of electric-powered cargo handling equipment, when/if this equipment is available on a wider scale and is practical to use, the Final EIR requires the Project to install electrical charging infrastructure within its truck courts to facilitate the implementation of electric yard equipment (when such equipment becomes commercially available on a wider scale, see Mitigation Measure 4.3-16).
- Per Mitigation Measure 4.3-18, in the event that the Project contains refrigerated storage, any building that contains refrigerated storage space is required to provide electrical hook-ups for trucks at loading docks and trucks that do not have plug-in capabilities will be prohibited from accessing the respective building site.
- Per Mitigation Measure 4.3-18, any Project building that contains refrigerated storage is required to provide electrical hook-ups for trucks at loading docks.
- The Project is conditioned to achieve the minimum qualifications for the LEED "Certified" rating for Core and Shell. In addition, the Project will be required to comply with all applicable State of California building and energy codes, which are designed to maximize energy efficiency and reduce GHG emissions. Ms. Smith



does not provide evidence to support the assertion that LEED v. 4 “Silver” rating would achieve greater GHG emissions reductions than what is currently required of the Project.

- Building users are not yet identified for the Project site’s buildings; thus, until the building occupants are known, it cannot be determined with any certainty if roof-top solar systems could be relied upon to meet the occupants’ peak electrical needs. Additionally, due to the proximity of the Project site to March Air Reserve Base and in consideration of past requests to the City from the Department of the Air Force and the Riverside County Airport Land Use Commission (ALUC), the City has not mandated that solar panels be installed because of concerns over potential glare/reflections from the panels affecting air traffic operations at the Base. Because final design plans for the proposed Project’s buildings would only become available if/when the Project is approved, the City cannot make a determination that it is feasible to construct roof-top solar systems for the Project that would be acceptable to the ALUC and March Air Reserve Base. The Final EIR includes performance-based mitigation measures related to the potential design of any roof-top solar system on the Project site (refer to Mitigation Measures 4.1-1 and 4.1-2) so as to not preclude installation of a roof-top solar system if/when it is demonstrated to be feasible and appropriate for the Project. Any roof-top solar system for the Project will require design review/approval by the City of Moreno Valley, the United States Department of the Air Force, and the Riverside County ALUC. Regarding the use of other technologies to reduce electricity usage, the Project would be subject to the California Building Standards Code (CalGreen), which mandates the use of many feasible energy efficiency features.
- The Project may include up to 174,000 square feet of refrigerated storage space. The analysis and mitigation presented in the Final EIR accounts for the Project’s potential to contain refrigerated storage.
- The Project will provide electric vehicle charging stations as required by the California Building Code. Ms. Smith does not provide substantial evidence to demonstrate the additional environmental benefit that the Project would achieve by providing five (5) electric vehicle charging stations per building in lieu of the quantity required by the Building Code.
- The Project is conditioned to comply with the design standards adopted by the State of California (Title 24) that are in effect at the time building permit applications are received by the City of Moreno Valley. The State’s 2016 Energy Standards went into effect on January 1, 2017, and will be applicable to the Project until the 2019 Energy Standards go into effect (January 1, 2020).
- The Project will provide alternative-fueled parking spaces as required by the California Building Code. Ms. Smith does not provide substantial evidence to demonstrate the environmental benefit that the Project would achieve by providing 30 parking spaces for alternative-fueled vehicles in lieu of the quantity required by the Building Code. The Final EIR already requires the Project to provide preferential parking for alternative-fueled vehicles (refer to Mitigation Measure 4.3-12).

4. Ms. Smith does not provide substantial evidence to support her assertion that the Project should require a minimum 300-foot setback from residential districts. The Final EIR includes detailed analyses of the Project’s potential effects to nearby residents and concludes that the Project would not result in any significant localized effects to nearby residents. Furthermore, the Final EIR evaluated a scenario where the Project is built with a 300-foot setback from residential districts and concluded that providing a 300-foot setback would not avoid or substantially reduce any of the Project’s environmental impacts (refer to Final EIR Section 6.0, *Alternatives to the Proposed Project*).



5. Under existing conditions, Caltrans has not prepared a report that identifies long-term improvements that are required to freeway facilities that receive cumulatively considerable traffic volumes from the Project. Also, Caltrans does not have a general mitigation fund that private development projects can contribute to. Without knowing what improvements are required to Caltrans facilities or what the improvements will cost, and without a bona fide mitigation funding program for the Project to contribute to, there is no feasible way for the Project to mitigate impacts to Caltrans facilities. The Final EIR does require the Applicant to pay fair-share mitigation fees to Caltrans in the event that Caltrans identifies needed improvements and their costs and establishes a mitigation funding program that private development projects can contribute to (refer to Mitigation Measure 4.11-12). For impacts to local traffic facilities (i.e., City of Moreno Valley, City of Perris, March JPA), the Final EIR already requires to the Project to pay fair-share mitigation fees to be held by the City of Moreno Valley until appropriate mitigation funding programs are established (refer to Mitigation Measures 4.11-9 through 4.11-11). Ms. Smith fails to identify any feasible mitigation measures for traffic impacts that are not already included in the Final EIR.

6. The City's CEQA expert disagrees with this comment; the alternatives analysis provided in the Final EIR conforms with the requirements of CEQA. As described in the Final EIR, the Project is designed to accommodate high-cube warehouse land uses in Building 1 and industrial, warehousing, manufacturing/assembly, e-commerce, and similar land uses in Buildings 2 through 4 (refer to Final EIR Page 3-15). The mix of land uses proposed by the Project also are reflected in the Final EIR's alternatives analysis. The alternatives evaluated in the Final EIR include: 1) an option to leave the subject property undeveloped; 2) an option to develop the property in accordance with the existing Moreno Valley Industrial Area Plan; 3) an option to develop the site with the same mix of land uses proposed by the Project, but with an approximately 20 percent reduction in intensity; and 4) an option to develop the site with only one warehouse building (overall 77 percent reduction in intensity). The CEQA Guidelines require that an EIR's alternatives analysis be governed by a "rule of reason" (See CEQA Guidelines § 15126.6(f)). The "rule of reason" does not require all imaginable alternatives to be evaluated in an EIR; rather, an EIR is required to evaluate enough alternatives to foster informed decision-making and the analysis should be limited to alternatives that would avoid or substantially reduce a project's significant impacts. The alternatives presented in the Final EIR represent a reasonable range of development scenarios that would result in different land uses on the Project site and varying amounts of truck traffic. As concluded in the Final EIR, none of the Project alternatives would avoid or reduce the Project's significant impacts while also achieving most of the Project's basic objectives (refer to Final EIR Section 6.0, *Alternatives to the Proposed Project*).

Sincerely,

T&B PLANNING

Tracy Zinn, AICP  
Principal



COMMENT LETTER

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**VIA E-MAIL AND U.S. MAIL**

September 5, 2017

City of Moreno Valley City Council  
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City of Moreno Valley  
c/o Ms. Julia Descoteaux, Associate Planner  
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**RE: *City Council Meeting September 5, 2017, Item E.2; 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, I urge you to deny approval of the above-captioned Moreno Valley Logistics Center Project, **Agenda Item E.2**. 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 is indefensible. Regardless of what has been allowed in the past, the City must take care to protect its residents with each new approval.

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This letter incorporates by reference our previous written comments on the EIR (attached without exhibits as Exhibit "A"). As we have commented, the EIR fails to comply with the California Environmental Quality Act ("CEQA") in numerous respects. Among other

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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 responses to our comments do not cure the EIR's defects.

2 Cont.

There are still a number of available mitigation measures for significant air quality impacts, which have not been demonstrated to be infeasible, including that:

- Only Tier 4 construction equipment shall be used;
- Only electric construction equipment shall be used – not merely used “if feasible”;
- Only 2010 model year or newer trucks shall be allowed to service the site – not merely “encouraged” through purported lease conditions;
- The Project must be conditioned to require the phase-in of newer technologies such as zero emission trucks or battery powered trucks;
- No APUs shall be permitted to idle on site;
- All forklifts and yard trucks/goats shall be electric;
- Plug-ins shall be installed at each truck bay to provide plug-ins for trucks not merely 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 plug-ins;
- The Project shall be designed to USGB LEED v.4 Silver or better standards \*This will help to mitigate significant GHG impacts;
- 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 (The fact that the Project is not conditioned to incorporate the *use of any* solar power is demonstrably outrageous in light of California's legislative goals and requirements related to a reduction of GHGs and energy consumption);
- 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;
- 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; and
- The Project shall provide a minimum of 30 parking spaces for alternatively fueled vehicles and these shall be provided nearest to building entrances.

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The Project must include a greater setback—at least 300 feet, ideally more—between the Project and the residential uses to the east. This is feasible within the meaning of CEQA. Similarly, the Project could be reduced in size or scale to help mitigate the host of significant environmental impacts resulting from the Project. This, too, is a feasible “mitigation” measure. The fact that the Project applicant desires a certain Project design or return on its investment does not translate to a finding of infeasibility. 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.) There is simply not enough being done to protect residents from the harmful effects of this Project with its round-the-clock noise, air pollution and traffic.

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Traffic mitigation 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 perhaps 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.

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In terms of the analysis of Project alternatives, the EIR’s “Project Objectives” are structured in such a way to foreclose any meaningful consideration of an alternative to a “logistics center.” CEQA prohibits structuring the alternatives analysis in this manner. Nor do the Findings of Fact demonstrate that alternatives are infeasible within the meaning of CEQA; at best, the findings show that the alternatives that were chosen for analysis have similar environmental impacts as the Project. But this indicates that the City failed to evaluate a reasonable *range* of Project alternatives capable of *reducing* significant Project impacts. For instance, the “reasons” for rejecting the No Project Alternative are nonsensical and are not findings of infeasibility. Again for instance, the Reduced Project Alternative is not shown to be infeasible. Moreover, any theory that this alternative would “displace” industrial uses to some other area or jurisdiction fails to account for the localized impacts of the Project. Perhaps the industrial space would be built in an area not abutting a residential neighborhood. Finally, there is not one alternative that evaluates a mixed use project or a business park type project with smaller buildings and with less intense use particularly *in terms of truck traffic*. As truck traffic is the major contributor to air quality and traffic impacts due to the Project, the City must

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evaluate an alternative that reduces the heavy duty truck traffic. A business park with lighter uses and not the constant stream of heavy-duty truck traffic would surely lessen some of the worst Project impacts.

6 Cont.

Thank you for your consideration of these additional comments as you evaluate the Project and weigh its significant impacts against the interests and well being of your residents.

Sincerely,

*Abigail Smith*

Abigail Smith  
Law Offices of Abigail Smith

Enclosure

COMMENT LETTER

# EXHIBIT A

COMMENT LETTER

**Law Offices of Abigail Smith**

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July 18, 2017

**VIA E-MAIL**

Pat Jaquez-Nares, City Clerk  
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Ms. Julia Descoteaux, Associate Planner  
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***RE: Opposition to 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, and Plot Plan PA15-0017); July 20, 2017 Planning Commission Special Meeting, Item 2***

Greetings:

Please accept these comments on behalf of the Sierra Club and Residents for a Livable Moreno Valley in opposition to the proposed Moreno Valley Logistics Center Project (Specific Plan Amendment P15-036, Tentative Parcel Map PA15-0018; Plot Plan PA15-0014, Plot Plan PA15-0015, Plot Plan PA15-0016, and Plot Plan PA15-0017).

The proposed Project involves the development of an approximately 89.4 gross-acre property located at the southwest corner of the intersection of Krameria Avenue and Indian Street with one (1) high cube warehouse building and three (3) light industrial buildings with a total building space of 1,737,518 square feet.

As detailed herein, several issues continue to pervade the EIR which must be addressed prior to consideration of this Project for approval.

**Setback Reduction to 100 Feet**

Foremost, despite comments from Sierra Club and Residents, the Environmental and Historical Preservation Board, and others objecting to a reduction in the setback buffer to

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a mere 100 feet, the application continues to propose a mere **100-foot setback** adjacent to Indian Street **proximate to existing housing**. As noted by the Environmental and Historical Preservation Board, because the development of industrial uses would be in close proximity to housing, and because “[l]andscaping may be limited/ reduced due to drought tolerant design,” maintaining a 300-foot setback adjacent to Indian Street is essential.

The response to this comment included that landscaping would comply with existing water efficiency requirements. But as global climate change worsens, as was evidenced by drought conditions throughout 2016, stricter water restrictions may be needed to continue to meet existing demand. Furthermore, plant diseases and agricultural pests are predicted to increase. The Project should account for potential water diversions from landscaping uses and other landscaping loss by retaining a 300-foot buffer from residential uses.

The other excuses made in favor of an exception from the 300-foot setback requirement are similarly unpersuasive. First, that an exception was granted for the adjacent site is no justification. The Specific Plan Amendment that provided an exception for the Proctor & Gamble (“P&G”) campus to a reduction of 100 feet was only for that site—the Specific Plan Amendment applied to no other properties within the Moreno Valley Industrial Area Plan. This is because, as commented by SoCal Environmental Justice Alliance, “This reduced setback is not representative of good planning practices.” (Final EIR Comment F-6) The fact that one property was granted a poorly contrived exception to established setback requirements does not support the applicants’ argument for further exceptions. This slippery slope argument must be rejected. Furthermore, the regular granting of exceptions to development standards can be tantamount to an improper amendment of the applicable land use document.

Second, to the extent the responses to comments allege an impact to 19 residences is not an impact to the environment, *Porterville Citizens for Responsible Development v. City of Porterville* (2007) 157 Cal.App.4<sup>th</sup> 885, 903, cited in the response, does not stand for such a claim. Rather, impacts to only few (one or two) people in the *Porterville* case was insufficient to rise to the level of an environmental impact. Here at least 19 households of individuals live directly across from the Project and would be impacted by the Project. Moreover, other nearby residences would be impacted by the over 6,000 vehicle trips/day, air pollutant emissions, noise, etc. The limitation expressed in *Porterville* thus does not apply.

Hence permitting a reduced setback is utterly unjustified by fact or law. To the contrary, the setback required by the Moreno Valley Industrial Area Plan is intended to provide

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adjacent residential uses some protection from a variety of environmental harms including noise impacts, greenhouse gases, vibration impacts, glare from the glass, and air quality issues such as diesel particulate matter and odors. The City should thus decline to permit any reduction of this buffer area.

### **Project Description**

The Project Description includes an option for Building 2 to developed as a 166-space trailer parking area. The assumption is that this use would be less intense and therefore have more limited impacts. This is not necessarily true as related to truck activity on the site and surrounding receptors (and localized air and noise impacts). The EIR should not assume an environmental benefit.

The Project Description (FEIR, p. 3-26) states the Project will meet minimum LEED certified standards. This is unclear as written, and at the least, should be adopted as an enforceable condition of approval and/or through the Project's mitigation program ("MMRP").

There is content buried in the traffic study (pp. 544-55) showing that the Project would include an amendment to the City's designated truck routes for Indian Avenue, south of the driveway at the southeast corner of Building 1, if the bridge over the flood control channel is constructed. The City claims this is not part of the project. However, the City must evaluate this scenario as part of air quality, traffic and noise impacts to the extent this is a reasonably foreseeable change to the circumstances of the Project.

### **Air Quality**

The excavation volume during project construction is nearly 4 times the fill volume. The preliminary grading plan shows calculations that make this miraculously balance. Please verify that grading will be balanced. If not, the assumptions of the air quality study could be incorrect and impacts understated.

MVMC Sections 9.10.050, 9.10.140, and 9.10.150 establish performance standards for air, noise, and odors. The Specific Plan also includes performance standards for air and noise (page III-17) that do not appear to be acknowledged in the EIR. These provisions should be addressed as thresholds. The Specific Plan air provisions refer to protection of outdoor uses, which is further support for the claim that the air and toxics analysis approaches are invalid.

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SCAQMD raised concerns about the assumptions used in health risk modeling, particularly with placement of receptors to the structure of residences, work, and schools rather than to the property line. The response to this comment states it is unlikely any person “would be outside on the property line for 70, 40, and 9 years.” (Response to Comment C-6) It is likewise unlikely any person would be only indoors for the duration of this timeframe and would not make use of the entire property, including outdoor areas. Furthermore, as SCAQMD is the agency with expertise in addressing air quality and health risks, the City should defer to its expert opinion in estimating health risks, especially where risks are very near the 10 cancer threshold of significance at an estimated 9.5 cancers per million.

The modeling for health risk impacts fails to utilize grid spacing of 100 meters across the sensitive receptor area, instead choosing to evaluate impacts at individual receptor locations. (See, “SCAQMD Modeling Guidance for AERMOD,” visited June 26, 2017 <<http://www.aqmd.gov/home/library/air-quality-data-studies/meteorological-data/modeling-guidance>>) Impacts may be greater and potentially significant at receptor locations not evaluated through the limited modeling in the EIR.

SCAQMD also cited concerns with the effectiveness of proposed construction mitigation, and suggested implementation of a “step down” from Tier 4 plan for construction equipment. The final EIR did not provide evidence that implementation of a step-down policy for this Project would be infeasible, either technologically or fiscally.

The final EIR also rejects SCAQMD’s suggested mitigation in the form of EV charging stations for both passenger vehicles and trucks. While the response argues EV truck technology is speculative, there is no similar basis cited for failing to include EV charging. Such vehicles are inarguably commercially available and in use. Charging stations would reduce the Project’s substantial GHG emissions.

SoCal Environmental Justice Alliance recommended construction mitigation in the form of requiring no overlap of construction phasing and lengthening the construction timeline, i.e. phase 1 occur first and be fully completed before commencement of phase 2, etc. Where construction air quality impacts remain significant even after the mitigation incorporated in the EIR, this additional and facially feasible mitigation measure must be analyzed. Despite the implication of the Response to Comments, that construction impacts “do not exceed the peak levels disclosed in the DEIR” does not mean that such impacts have been mitigated below a level of significance. Consideration of this additional mitigation is consequently required.

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Mitigation Measure 4.3-3 (a) and (h) send conflicting information to users of the Project regarding maximum allowed idling time. Subdivision (a) should be modified to state vehicle idling is limited to 3 minutes such that mitigation is certain and enforceable.

Mitigation Measures 4.3-13, -14, -15 etc. require a model lease be provided to the City, but fail to require the variety of listed measures be included in any lease or sale and thereby implement the mitigation measures as Project operational requirements. As currently written, such mitigation is uncertain to occur and unenforceable beyond ensuring terms are included in the “model” lease.

Mitigation Measure 4.3-17 requires signs be installed directing trucks to the City’s truck route. But the truck route would still permit trucks to pass by sensitive receptors and residential areas. This mitigation should be amended to require signs direct trucks to access the freeway via Harley Knox Boulevard in lieu of passing by residences located throughout the City. This information should also be verbally communicated to drivers accessing the site.

Mitigation Measure 4.3-19 requires landscaping plans evidence adequate shade coverage by trees in automotive parking areas. Language should be added mandating that shade tree coverage be maintained/ replaced for the life of the Project, particularly where trees in the region have been hard hit by disease in recent years. (“The Trees that Make Southern California Shady and Green are Dying. Fast,” April 19, 2017 ><http://www.latimes.com/local/california/la-me-dying-urban-trees-20170403-story.html>>) Further, all drive and parking areas onsite should be paved in concrete, not asphalt, to minimize any heat island effect onsite and to surrounding areas.

### **GHGs**

Mitigation Measure 4.6-1 requires the roof area of each building be developed to support solar paneling, but no actual solar panels are proposed for the Project. Given the Project’s significant GHG emissions (42,404.68 MTCO<sub>2</sub>e/ year) and electricity needs (15,535,696 kWh/yr), 1 MW of solar panels should be required for the Project.

The EIR writes off GHG emissions on the basis that 86.6% are generated from mobile sources. But these emissions may be offset elsewhere by reductions in stationary source emissions as GHGs are a global, not local, emissions issue. Hence, reducing emissions through the installation of PV may act to substantially offset Project net GHG emissions.

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### **Health Risk**

The HRA identifies a risk of 9.5 when the threshold of significance is 10 per million. In addition to this methodology issue, the assumption is that only approximately 60% of truck traffic will be large trucks. It is doubtful that this vehicle mix is realistic for a warehouse distribution complex. The cited study is not applicable to this Project with its particular use. Additionally, trip generation is based on the accepted ITE land use types. There is a problem with the trip distribution assumptions: only 59% of the trucks are routed to Buildings 1 and 2, while these two buildings create 73% of the project truck traffic. This is most readily apparent by comparing Figure 4-2 (2 of 2) in the traffic study to the Trip Generation Summary (Traffic Study Table 4-3). This affects not only the traffic analysis, but also results in underestimation of other impacts for the most impacted adjoining sensitive receptors.

The HRA identifies a school located more than one mile away on Delphinium as the most impacted; the study ignores the two schools on Indian at Krameria, just .5 miles away from the Project, and, in fact, the more distant school appears to be more impacted as no truck traffic is distributed to Indian Avenue.

The HRA does not consider the cumulative risk from the P&G facility. Cumulative impacts seem to be addressed by adding Project emissions to the background MATES levels. The 2008 (approximate) HRA for the P&G project calculated a risk of 7.9/million for that project.

### **Land Use**

The 300-foot requirement in the Specific Plan is a component of the industrial land use designation which limits maximum building sizes to 50,000 square feet with only indoor uses. Massive, trucking-oriented buildings are not permitted within the designated areas.

Furthermore, the characterization of the reduced setback as being consistent with the P&G facility is dubious. Looking at the P&G building layout, it is obvious that where the P&G project has a similar interface with a residential neighborhood, it maintained a 250-foot setback, and has no truck docks. *The 100-foot setback reduction for P&G was allowed adjacent to an area with much more limited existing residential use.* In other words, there is no “precedent” for allowing a limited setback in relation to existing housing as claimed for the Project.

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### Noise

The EIR fails to evaluate potential noise impacts against applicable standards. The EIR fails to evaluate construction noise increases over ambient levels, only looking at whether peak noise levels would exceed City General Plan thresholds. (*See*, Table 4.10-6) This means significant construction noise impacts through increasing ambient noise at adjacent sensitive receptors may remain unevaluated and unmitigated.

As discussed above, MVMC Sections 9.10.050, 9.10.140, and 9.10.150 establish performance standards for air, noise, and odors. The Specific Plan also includes performance standards for air and noise (page III-17) that do not appear to be acknowledged in the EIR. These provisions should be addressed as thresholds.

The EIR also evaluates construction noise in a vacuum without consideration of construction noise additions to the ambient noise environment. In other words, the EIR considers only equipment noise and attenuation, not how equipment noise will contribute to the already unacceptably high ambient noise levels in the area. (Table 4.10-6, *see also*, Table 10-1) By so limiting its assessment, the EIR fails to disclose and adequately mitigate for impacts from construction noise.

In addition, nighttime construction noise impacts were improperly considered against *daytime* levels at Table 4.10-8, see footnote 6. Several receivers will experience noise above *nighttime* standards. Construction noise impacts should be found significant at night. Additional mitigation is needed to reduce or avoid construction noise impacts.

The EIR traffic noise analysis fails to evaluate whether Project traffic noise will exceed City General Plan thresholds, looking only at noise increases over existing levels. As evidenced in the noise tables, the Project will contribute to and cause exceedences of the residential 65 dBA along roadways used by the Project. These impacts should be found significant. The EIR should evaluate whether additional mitigation in the form of installing rubberized asphalt, repaving, implementing noise reducing vehicle technology, or by other means may be available to reduce or avoid traffic noise impacts.

Finally, projected truck traffic on Krameria between Cosmos Street and Indian Avenue is understated by 14%. The noise analysis for traffic and for truck operations at Building 1 must be corrected.

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### **Traffic**

The EIR relies on the Fontana Trip Generation study for estimates of Project vehicle and fleet mix. The Fontana Trip Generation study was extremely limited and is outdated. SCAQMD has recently undertaken numerous warehouse studies and can provide a more accurate breakdown of truck type by axle based on regional warehouses. A truck mix of 22.0% 2-axle trucks, 17.7% 3- axle trucks, and 60.3% - 4 axle trucks should be used. (SCAQMD *Warehouse Truck Trip Study*, July 14, 2014; SCAQMD *Warehouse Truck Trip Study Data Results and Usage*, June 2014 < [http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/final-iele\\_6-19-2014.pdf?sfvrsn=2](http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/final-iele_6-19-2014.pdf?sfvrsn=2)>.)

And even assuming the study uses the breakdown of truck type per SCAQMD, there is still a major problem with the trip distribution assumptions, as discussed above. Only 59% of the trucks are routed to Buildings 1 and 2, while these two buildings create 73% of the project truck traffic. This is most readily apparent by comparing Figure 4-2 (2 of 2) in the traffic study to the Trip Generation Summary (Traffic Study Table 4-3). This affects the conclusions of the traffic analysis.

The Project design includes narrow driveways to keep trucks from directly accessing Krameria and Indian Avenue (as they did for P&G, along with signs to define truck routes). But the Project traffic counts still show trucks using Indian and Krameria Avenue (east of Cosmos), so it is clear that narrow driveways and signs are not effective for existing warehouses in the area. Enforceable improvements and measures are needed to keep the Project trucks out of the adjacent residential areas.

Figure 4.10-11 (FEIR pp. 4.11-111) has an error on the truck distribution for Heacock between Krameria and Cactus (shows 60%, but should be 70%). It is unclear whether this error is carried through into the air quality, traffic, and noise models. Also, the truck distribution only 59% of the trucks being routed to Buildings 1 and 2, while these two buildings create 73% of the Project's truck traffic. This is most readily apparent by comparing Figure 4-2 (2 of 2) in the traffic study to the Trip Generation Summary (Traffic Study Table 4-3). This affects not only the traffic analysis, but also results in underestimation of air and noise impacts for the most impacted adjoining sensitive receptors.

The attached October 2016 ITE study commissioned by SCAQMD and NAIOP (Exhibit "A" hereto) documents the wide variation in trip characteristics for the different end users of these massive industrial warehouse uses. When the user is identified or changes, the EIR should contain an enforceable condition requiring an evaluation of the comparative

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trip rates and traffic-related impacts (on-site and off-site) before a certificate of occupancy is issued.

The layout for Building 1 requires that all trucks entering the east docks move through unwallled areas at the north and south end of the site. It is not clear that truck movements on the site are adequately considered in the Project's noise analysis.

### **Trails**

The Specific Plan includes a multi-use trail along the flood control channel throughout the Project limits. The only mention of this trail with regard to the Project is a claim that the Project does not interfere with or preclude future implementation.

The City should require this Project to install the trail since it runs along the Project site. This trail could serve as path of travel for non-motorized vehicles to aid in trip reduction. Moreno Valley should support and require of projects opportunities for use of alternative modes of transportation to help offset the mobile emissions.

### **Conclusion**

For the reasons set forth herein, we respectfully ask the Planning Commission vote to deny the Project. In the event approval is considered, we ask any approval not grant the application for a Specific Plan Amendment and thereby not grant the reduced 100-foot setback sought in the Project applications.

Thank you for your consideration of these comments.

Sincerely,



Abigail Smith  
Law Offices of Abigail Smith

Enclosure