

RESOLUTION NO. 2023-__

**A RESOLUTION OF THE MORENO VALLEY CITY COUNCIL
APPROVING AND ADOPTING A MITIGATION, MONITORING AND
REPORTING PROGRAM AND STATEMENT OF OVERRIDING
CONSIDERATIONS AND CERTIFYING THE FINAL ENVIRONMENTAL
IMPACT REPORT FOR THE MORENO VALLEY TRADE CENTER
PROJECT**

(Assessor Parcel Nos. 488-340-002 through 488-340-012)

WHEREAS, the City of Moreno Valley ("City") is a general law city and a municipal corporation of the State of California; and

WHEREAS, MVTC, LLC, a Delaware limited liability company ("Applicant") is proposing the development of a 1,263,271 square foot, modern light industrial building to be used as a warehouse distribution/logistics center, or, in the alternative, as an e-commerce facility, commonly known as the Moreno Valley Trade Center ("Proposed Project"), which includes associated site improvements, such as but not limited to, drive aisles, landscaping, utility infrastructure, water quality basins, exterior lighting, walls/fencing, and signage, as more fully described in the Environmental Impact Report (EIR), a copy of which is incorporated herein by this reference as though set forth in full; and

WHEREAS, the Proposed Project is located on land situated on Eucalyptus Avenue, west of Redlands Boulevard, north of Encelia Avenue, and east of Quincy Channel (APN'S 488-340-002 through 488-340-012) ("Project Site"); and

WHEREAS, the Proposed Project includes the following requested entitlements: General Plan Amendment (PEN19-0191), 2) Change of Zone (PEN19-0192) and corresponding amendment to the City's Zoning Atlas, 3) Tentative Parcel Map (PEN19-0234), and 4) Plot Plan (PEN19-0193); and

WHEREAS, the purpose of General Plan Amendment (PEN19-0191) is to change the Land Use Designation of the Project Site under the City of Moreno Valley General Plan Land Use Map from Residential 2 (R2) to Business Park (BP); and

WHEREAS, the purpose of Change of Zone (PEN19-0192) is to rezone the Project Site from Residential Agriculture 2 District (RA2) to Light Industrial District (LI), and to remove the Project Site's "Primary Animal Keeping Overlay (PAKO)" overlay classification; and

WHEREAS, the purpose of Tentative Parcel Map (PEN19-0234) is to merge the existing 11 parcels into a single parcel; and

WHEREAS, the purpose of Plot Plan (PEN19-0193) is to construct an approximately 1,263,271 square foot Warehouse/Distribution building on the Project Site with associated parking, landscape improvements and off-site public improvements; and

WHEREAS, the Proposed Project was considered by the Planning Commission at a duly noticed public hearing conducted on October 28, 2021, and the Planning Commission voted 4-0 to deny the Proposed Project; and

WHEREAS, the Applicant appealed the Planning Commission's decision as set forth in Appeal Application (PAA21-0001) and a duly noticed public hearing on the appeal was conducted by the City Council on December 7, 2021; and

WHEREAS, at the public hearing held on December 7, 2021, the City Council did not rule on the appeal, but rather, after receiving public testimony unanimously voted to continue the public hearing regarding the Draft EIR and the Proposed Project to a date uncertain; and

WHEREAS, after taking into consideration several issues raised by the Planning Commission in its denial of the Proposed Project and input it received from members of the public and the City Council at the December 7, 2021, public hearing, the Applicant submitted various revisions ("Proposed Revisions") to the Proposed Project that the Applicant represents are responsive to the various concerns raised by members of the public, the Planning Commission and the City Council; and

WHEREAS, since none of the Proposed Revisions presented by the Applicant require any modifications or revisions to General Plan Amendment (PEN19-0191) and Change of Zone (PEN19-0192), as originally presented on October 28, 2021, at the Planning Commission public hearing and on December 7, 2021, City Council public hearing, the City Council is not required to refer the Proposed Project back to the Planning Commission for a recommendation prior to taking final action of the Proposed Project, as revised per the Proposed Revisions; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA") (Public Res. Code, § 2100 *et seq.*) and the CEQA Guidelines (14 CCR § 15000 *et seq.*), the City is the "lead agency" for the Proposed Project; and

WHEREAS, the City as lead agency determined during the initial processing of the Proposed Project that it could have potentially significant effects on the environment, requiring the preparation of an Environmental Impact Report pursuant to CEQA in order to analyze all potential adverse environmental impacts of the Proposed Project; and

WHEREAS, the City issued a Notice of Preparation ("NOP") of a Draft EIR on March 16, 2020, and circulated the NOP for a period of 30 days, pursuant to the CEQA Guidelines; and

WHEREAS, pursuant to CEQA Guidelines section 15082, the City solicited comments from potential responsible agencies, including details about the scope and content of the environmental information related to each responsible agency's respective area of statutory responsibility; and

WHEREAS, comment letters/emails were received by the City in response to the NOP, which assisted the City in narrowing the issues and alternatives for analysis in the

Draft EIR; and

WHEREAS, a public scoping meeting was also held on April 8, 2020, to familiarize the public with the Proposed Project and the environmental review process and to receive input as to the scope of the Draft EIR and issues of community concern; and

WHEREAS, pursuant to Public Resources Code section 210092, public notices announcing availability of the Draft EIR was mailed to interested parties, an advertisement was published in the Press Enterprise (a newspaper of general circulation in the City), and copies of the Draft EIR and its Technical Appendices were made available for public review and inspection at the locations identified in the public notices; and

WHEREAS, the Draft EIR circulated for review and comment by the public and other interested parties, agencies, and organizations on May 24, 2021, for a 45-day public review period, which commenced upon the filing of the Notice of Completion and Availability with the State Office of Planning and Research; and

WHEREAS, during the 45-day public review period, the City consulted with and requested comments from all responsible and trustee agencies, other regulatory agencies and others pursuant to CEQA Guidelines section 15086; and

WHEREAS, the City responded to all of the comments received by the City during the public review period; and

WHEREAS, the City prepared the Final EIR and, pursuant to Public Resources Code section 21092.5, the City provided copies of the Final EIR to all commenting persons and agencies; and

WHEREAS, the Final EIR sufficiently analyzes both the feasible mitigation measures necessary to avoid or substantially lessen the Proposed Project's potential environmental impacts and a range of feasible alternatives capable of eliminating or reducing these effects in accordance with CEQA and the CEQA Guidelines; and

WHEREAS, the Findings of Fact, attached hereto as Exhibit A, prepared for the Proposed Project conclude that the proposed mitigation measures, as set forth the Mitigation Monitoring and Reporting Program, attached hereto as Exhibit B, are feasible and constitute a binding set of obligations that will take full effect upon the City Council's certification of the Final EIR; and

WHEREAS, the City Council, after considering and weighing the economic, planning, social, aesthetic, and environmental benefits of the Proposed Project against the Proposed Project's unavoidable adverse impacts, has determined that the benefits of the Proposed Project outweigh the potential unavoidable adverse impacts; and

WHEREAS, pursuant to CEQA Guidelines Section 15093, the City prepared a Statement of Overriding Consideration, attached hereto as Exhibit C, that provides that any significant adverse effects of the Proposed Project are acceptable since the expected benefits of the Proposed Project outweigh Proposed Project's unavoidable adverse

environmental impacts; and

WHEREAS, the City has fulfilled its duties as lead agency pursuant to CEQA and the CEQA Guidelines and it has been determined by staff that the Final EIR is sufficiently detailed so that all of the potentially significant environmental effects of the Proposed Project have been adequately evaluated; and

WHEREAS, on June 21, 2022, the City Council did not rule on the appeal, but rather, unanimously voted to continue the public hearing regarding the Draft EIR and the Proposed Project to a date uncertain prior to reopening the public hearing; and

WHEREAS, on November 15, 2022, the item was scheduled for consideration by the City Council; however, the meeting was canceled and adjourned to December 6, 2022, with no action being taken; and

WHEREAS, on December 6, 2022, the City Council did not rule on the appeal, but rather, unanimously voted to continue the public hearing regarding the Draft EIR and the Proposed Project to a date uncertain prior to reopening the public hearing; and

WHEREAS, on April 18, 2023, the City Council conducted a duly noticed continued public hearing on the Proposed Project, as revised, and considered the Final EIR, the attached Mitigation Monitoring and Reporting Program and Statement of Overriding Considerations; and

WHEREAS, the Final EIR reflects the independent judgment of the City Council and is deemed adequate for purposes of making decisions on the merits of the Project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals and Exhibits

That the foregoing Recitals and attached exhibits are true and correct and are hereby incorporated by this reference.

Section 2. Notice

That pursuant to Government Code section 66020(d)(1), notice is hereby given that the Proposed Project is subject to certain fees, dedications, reservations and other exactions as provided herein.

Section 3. Evidence

That the City Council has considered all of the evidence submitted into the administrative record for the Proposed Project, including, but not limited to, the following:

- (a) Moreno Valley General Plan and all other relevant provisions contained therein;
- (b) Title 9 (Planning and Zoning) of the Moreno Valley Municipal Code;

- (c) Applications for 1) General Plan Amendment (PEN19-0191), 2) Change of Zone (PEN19-0192) and corresponding amendment to the City's Zoning Atlas, 3) Tentative Parcel Map (PEN19-0234), and 4) Plot Plan (PEN19-0193) and all documents, records and references contained therein;
- (d) Proposed Project's Final Environmental Impact Report and related Mitigation Monitoring and Reporting Program and Statement of Overriding Considerations, attached hereto respectively as Exhibits B and C;
- (e) Findings of Fact, as attached hereto as Exhibit A;
- (f) Proposed conditions of approval for the Proposed Project;
- (g) Staff Reports prepared for the Planning Commission for its October 28, 2021 public hearing and the City Council for its December 7, 2021 public hearing;
- (h) Staff Reports prepared for the City Council for the June 21, 2022 public hearing;
- (i) Staff Reports prepared for the City Council for the November 15, 2022 public hearing;
- (j) Staff Reports prepared for the City Council for the December 6, 2022 public hearing;
- (k) Staff Reports prepared for the City Council for the April 18, 2023 public hearing;
- (l) Staff's presentation at the December 7, 2021 and April 18, 2023 City Council public hearings;
- (m) Testimony and/or comments from Applicant and its representatives during the December 7, 2021 and April 18, 2023 public hearings; and
- (n) Testimony and/or comments from all persons that was provided in written format or correspondence, at, or prior to, the December 7, 2021, June 21, 2022, November 15, 2022, December 6, 2022, and April 18, 2023 public hearings.

Section 4. Findings Regarding Recirculation

That based on the foregoing Recitals and the Evidence, and the additional related Findings set forth herein, the City Council makes the following findings with respect to the issue of Recirculation:

- (a) That the Proposed Revisions, which are characterized as a "Comprehensive Project Redesign of the Proposed Project" (rather than mitigation) include a variety of changes to the Proposed Project that are intended specifically to reduce the impacts of the Proposed Project as originally described in the Draft EIR through project redesign;
- (b) That the various findings and determinations articulated in the recently prepared and updated technical studies, reports and evaluations, attached to the Staff Report, which include but not limited to the following: 1) Revised Project Evaluation; 2) Air Quality, Greenhouse Gas, and Health Risk Assessment Evaluations; 3) Traffic Impact Analysis Evaluations; 4) Noise Summaries; and 5) Hydrology Calculations, confirm that the Proposed

Revisions do not: 1) result in new significant environmental impacts that were not disclosed in the Draft EIR; nor 2) result in significant impacts that are more severe than the impacts that were disclosed in the Draft EIR;

- (c) That the Proposed Revisions will effectively benefit the neighboring residents, through reducing noise, traffic and air quality impacts on neighbors by: 1) reducing building size by 65,000+ square feet; 2) eliminating driveways on Encelia Avenue which will remove 650 daily vehicles on Encelia Avenue; 3) eliminating truck traffic on Redlands Boulevard, south of Eucalyptus Avenue; 4) improving visual and noise screening prior to trees reaching full size; 5) eliminating 11 dock doors from the Proposed Project's design; and 6) adding a new approximately 35 foot-tall earthen berm on the southern side of the Project Site;
- (d) That the revised onsite circulation will direct trucks to access the Project Site from Eucalyptus Avenue only which means that no trucks from the Project Site will travel on Redlands Boulevard, south of Eucalyptus Avenue as was originally proposed, and that by designating the northern driveway on Redland Boulevard to "Automobile-Only," traffic traveling southbound toward Encelia Avenue, traffic will be reduced by 35% of what was originally proposed in the Draft EIR;
- (e) That the addition of the approximately 35-foot berm to the southern portion of the Project Site will also result in major changes that will significantly lessen the Proposed Project's aesthetic impacts since: 1) it will completely block views of both the existing warehouses north of Eucalyptus Avenue and the Proposed Project from the adjacent neighborhood; 2) it will be landscaped with 24-inch box trees consisting of Blue Palo Verde, Desert Willow, California Sycamore, Coast Live Oak, Afghan Pine, and Canary Island Pine; and 3) only landscaping will then be visible from Encelia Avenue since the screen wall will be behind the berm;
- (f) That the berm will also lessen the anticipated noise impacts, as originally described in the Draft EIR, in that: 1) the berm will drastically reduce sound below levels in prior design by reducing the noise level by an additional 26% from what was originally projected in the Draft EIR; 2) the berm will reduce the estimated project noise levels to 35.5 decibels (equivalent to "Quiet Suburban Nighttime or Quiet Urban Nighttime") at the Encelia residential neighborhood, which is significantly lower than the ambient noise levels of 41.7 decibels (dBA Leq) that exist today within the neighborhood; and 3) the berm will serve as a noise cancelling mitigation measure related to ambient noise caused by back-up alarms mandated by OSHA and local regulations;
- (g) That there are no changes needed to the analysis or mitigation measures contained in the Final EIR; and

- (h) That the public has not been deprived of a meaningful opportunity to comment on either a substantial adverse environmental impact of the project or a feasible project alternative or mitigation measure that would clearly reduce the impact and that is not going to be implemented.

Section 5. Findings Regarding Mitigation Measures and Mitigation Monitoring & Reporting Program

That based on the foregoing Recitals and the Evidence, and the additional related Findings set forth herein, the City Council makes the following findings with respect to the Mitigation Measure and Mitigation Monitoring & Reporting Program:

- (a) That the Proposed Project's mitigation measures are proposed to reduce the level of potential environmental impacts of the Proposed Project;
- (b) That the mitigation measures have been incorporated in the proposed Mitigation Reporting and Monitoring Program, that is included as part of the Final EIR;
- (c) That the purpose of the Mitigation Reporting and Monitoring Program is to ensure that Proposed Project's mitigation measures shall be enforceable through permit conditions, agreements, or other mechanisms; and
- (d) That because mitigation measures are incorporated into the Proposed Project's approval, the City will be able to use code and permit enforcement procedures to ensure implementation of each of the Proposed Project's mitigation measures.

Section 6. Findings Regarding Statement of Overriding Considerations

That based on the foregoing Recitals and the Evidence, and the additional related Findings set forth herein, the City Council makes the following findings with respect to the Statement of Overriding Considerations:

- (a) That although the Mitigation Measures are recommended to reduce the level of the potential environmental impacts of the Proposed Project, after the application of all feasible mitigation measures, that the Proposed Project would result in a few significant and unavoidable environmental effects;
- (b) That the following significant and unavoidable environmental impacts have been identified in the Final EIR and will require mitigation but cannot be mitigated to a level of insignificance: 1) Aesthetics: Substantial Adverse Effect on a Scenic Vista; 2) Air Quality: Air Quality Management Plan Conflict; 3) Air Quality: Criteria Pollutant Emissions; and 4) Greenhouse Gas Emissions;
- (c) That details of these significant unavoidable adverse impacts are discussed

in the Final EIR and are summarized, or were otherwise provided in Section 5.3, *Environmental Effects Which Remain Significant and Unavoidable After Mitigation and Findings*, in the Statement of Facts and Findings, attached hereto as Exhibit A;

- (d) That when balancing the benefits of the Proposed Project against the unavoidable effects which remain, the City Council finds that any one of the following benefits standing alone would be sufficient to sustain the Statement of Overriding Considerations:
- i. Approval of the Proposed Project will create maximum employment-generating opportunities for citizens of Moreno Valley and surrounding communities. Development and construction of the site will create both temporary on-site jobs as well as indirectly support local and regional jobs. Additionally, construction spending will create a one-time stimulus to the local and regional economics;
 - ii. Approval of the Proposed Project will create a Class A speculative light industrial building in Moreno Valley that is designed to meet contemporary industry standards and be economically competitive with similar industrial buildings in the local area and region;
 - iii. Approval of the Proposed Project will contribute towards maximizing employment opportunities within the City to improve the jobs-housing balance and to reduce systemic unemployment within the City. The Proposed Project will attract businesses that can expedite the delivery of essential goods to consumers and businesses in Moreno Valley and beyond the City boundary;
 - iv. Approval of the Proposed Project will create approximately 1,000 new on-site jobs under the warehouse distribution/logistics option and 2,000 new on-site jobs under the e-commerce/fulfillment option;
 - v. Approval of the Proposed Project will result in the development and operation of a state-of-the-art logistics center that takes advantage of existing and planned infrastructure, is technologically feasible to construct, and in the general vicinity of similar industrial logistics and distribution center uses;
 - vi. Approval of the Proposed Project will maximize efficient goods movement throughout the region by locating a large format logistics center in close proximity to the Ports of Los Angeles and Long Beach thereby enabling trucks servicing the site to achieve a minimum of two roundtrips per day;
 - vii. Approval of the Proposed Project will maximize the use of a large industrial site in the region that is in close proximity to the Ports of

Los Angeles and Long Beach, to realize substantial unmet demand in the region, allowing the region to compete on a domestic and international scale through the efficient and cost-effective movement of goods; and

- viii. Approval of the Proposed Project will facilitate the development of long-standing underutilized and vacant land.

Section 7. Findings Regarding Final Environmental Impact Report

That based on the foregoing Recitals and the Evidence, and the additional related Findings set forth herein, the City Council makes the following findings with respect to the Final Environmental Impact Report:

- (a) That pursuant to Public Resources Code section 21090.4 and CEQA Guidelines sections 15082 – 15083, the City solicited the views of responsible agencies and certain other public agencies regarding the scope and content of the Draft EIR via a Notice of Preparation of the Draft EIR;
- (b) That pursuant to Public Resources Code sections 21080.4 and 21092.3, a copy of the Notice of Preparation also must be mailed to the State Office of Planning and Research and posted in the office of the Riverside County Clerk;
- (c) That pursuant to CEQA Guidelines sections 15082(c) and 15083, the City held a scoping meeting to consult with responsible and trustee agencies, the public and other interested parties;
- (d) That pursuant to Public Resources Code sections 21080.3.1 – 21080.3.2, the provided formal written notification to any tribe that has requested notice of projects within its traditionally and culturally affiliated area;
- (e) That the Draft EIR was prepared and circulated to the public and affected public agencies for review and comments for a 45-day public review period and the Final EIR, including the comments submitted and responses to those comments, was prepared;
- (f) That pursuant to Public Resources Code section 21092(b)(1), a Notice of Completion was prepared and it included a description of how the draft EIR can be obtained in electronic format;
- (g) That pursuant to Public Resources Code section 21091(d)(2) and CEQA Guidelines section 15088, written comments received during the public review period for the Draft EIR were responded to in writing;
- (h) That pursuant to Public Resources Code section 21091(d)(2)(B) and CEQA Guidelines section 15088, the responses to comments provided reasoned, good faith analyses regarding all significant environmental issues raised in

the EIR comments;

- (i) That pursuant to Public Resources Code section 21100 and CEQA Guidelines sections 15120-15132, the Final EIR accurately describes the Proposed Project; identifies and analyzes each significant environmental impact expected to result from the Proposed Project; identifies mitigation measures to reduce those impacts to the extent feasible; evaluates a range of reasonable alternatives to the Proposed Project; and includes a statement indicating the reasons for determining that any effects on the environment are not significant and, thus, have not been discussed in detail;
- (j) That pursuant to CEQA Guidelines section 15132, the Final EIR consists of the Draft EIR with any revisions made following its circulation for public review, the comments received on the Draft EIR, a list of persons and entities commenting on the Draft EIR, and the City's responses to comments;
- (k) That pursuant to CEQA Guidelines section 15090(a) the Final EIR was completed in compliance with CEQA and was reviewed and considered by the City Council before approval of the Proposed Project; and
- (l) That the Final EIR is complete and adequate; and
- (m) That pursuant to Public Resources Code section 21082.1(c)(3) and CEQA Guidelines section 15090(a)(3), the Final EIR reflects the independent judgment of the City and City Council.

Section 8. Non-Recirculation Determination

That based on the foregoing Recitals, Evidence contained in the Administrative Record and Findings set forth herein, the City Council hereby determines that the Draft EIR was not subject to recirculation since there was no "significant new information" added to a Draft EIR after the expiration of the public comment period but before certification.

Section 9. Approval and Adoption of Mitigation Measures and Mitigation Monitoring & Reporting Program

That based on the foregoing Recitals, Evidence contained in the Administrative Record and Findings set forth herein, the City Council hereby approves and adopts the Mitigation Measures and Mitigation Monitoring & Reporting Program, attached hereto as Exhibit B.

Section 10. Approval and Adoption of Statement of Overriding Considerations

That based on the foregoing Recitals, Evidence contained in the Administrative Record and Findings set forth herein, the City Council hereby approves and adopts the

Statement of Overriding Considerations, attached hereto as Exhibit c.

Section 11. Certification of Final Environmental Impact Report

That based on the foregoing Recitals, Evidence contained in the Administrative Record and Findings set forth herein, and approval and adoption of the Mitigation Measures and Mitigation Monitoring & Reporting Program, attached hereto as Exhibit B, and the Statement of Overriding Considerations, attached hereto as Exhibit C, the City Council hereby certifies the Final Environmental Impact Report, attached hereto as Exhibit D, which is complete and adequate and reflects the independent judgment of the City and City Council.

Section 12. Notice of Determination

That pursuant to CEQA Guidelines sections 15075 and 15094, staff shall file a Notice of Determination within 5 working days after approval of the Proposed Project which shall include: a brief description of the Proposed Project; the identity of the lead agency; the identity of any project applicant or, if different from the applicant, the identity of the person undertaking the project; and statements regarding whether the Proposed Project will result in a significant environmental impact, whether any mitigation measures were adopted, and whether a mitigation monitoring and reporting plan was adopted.

Section 13. Repeal of Conflicting Provisions

That all the provisions as heretofore adopted by the City Council that are in conflict with the provisions of this Resolution are hereby repealed.

Section 14. Severability

That the City Council declares that, should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

Section 15. Effective Date

That this Resolution shall take effect immediately upon the date of adoption.

Section 16. Certification

That the City Clerk shall certify to the passage of this Resolution.

PASSED AND ADOPTED THIS 18th day of April, 2023.

Ulises Cabrera, Mayor

ATTEST:

Jane Halstead, City Clerk

APPROVED AS TO FORM:

Steven B. Quintanilla, Interim City Attorney

Exhibits:

Exhibit A: Statement of Facts and Findings

Exhibit B: Mitigation Monitoring and Reporting Program

Exhibit C: Statement of Overriding Considerations

Exhibit D: Final Environmental Impact Report