

**XAVIER BECERRA**  
**Attorney General**

**State of California**  
**DEPARTMENT OF JUSTICE**



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January 31, 2020

City of Jurupa Valley Planning Department  
Attn: Annette Tam, Senior Planner  
8930 Limonite Avenue  
Jurupa Valley, CA 92509  
atam@jurupavalley.org

RE: Draft Environmental Impact Report for the Agua Mansa Commerce Park Specific Plan (SCH #2017071034)

Dear Ms. Tam:

The California Attorney General's Office has reviewed the City of Jurupa Valley's Draft Environmental Impact Report (DEIR) for the Agua Mansa Commerce Park Specific Plan (the Project).<sup>1</sup> The Project would result in six warehouses totaling 4.4 million square feet on a remediated former cement plant and quarry site. The warehouses would bring over 2,400 daily truck trips to communities in Jurupa Valley (the City) and San Bernardino County that are economically and socially vulnerable, over 80% people of color, and already exposed to significant levels of pollution.

The DEIR does not comply with the California Environmental Quality Act (CEQA). First, despite the DEIR finding significant and unavoidable impacts to air quality and greenhouse gas emissions, the Project fails to include all feasible air quality and greenhouse gas emission mitigation as required by CEQA. Second, the DEIR's air quality analysis does not account for the Project's potential use for cold storage. Third, the DEIR's analysis of noise impacts is flawed, ultimately concluding that no additional amount of noise would have a significant impact because the area already suffers from excessive noise. Finally, the DEIR lacks a robust discussion of the City's plan to comply with important public participation requirements in a 2013 consent judgment that the City entered into with the Attorney General's Office and Center for Community Action and Environmental Justice (CCA EJ) (the Consent Judgment) and the Environmental Justice Element of the City's General Plan (EJ Element). We urge the City to sufficiently analyze all Project impacts, adopt all feasible mitigation measures to protect nearby

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<sup>1</sup> The Attorney General submits these comments pursuant to his independent power and duty to protect the environment and natural resources of the State. (See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12612; *D'Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1, 14-15.).

communities, describe its community engagement efforts, and respond to comments it received at the community meeting it held.

**I. THE PROJECT WOULD SITE A LARGE WAREHOUSE COMPLEX NEAR ECONOMICALLY AND SOCIALLY VULNERABLE COMMUNITIES THAT ARE ALREADY EXPOSED TO HIGH LEVELS OF POLLUTION.**

The Project would establish a specific plan area covering 302.8 acres that would be divided into three land use districts: an industrial district of 189.7 acres, a business park with retail overlay district of 33.8 acres, and an open space district of 70.9 acres.<sup>2</sup> The industrial district would consist of five warehouses totaling 4,216,000 square feet.<sup>3</sup> The business park district would be a sixth warehouse building of 200,000 square feet.<sup>4</sup> The open space district is a former quarry site with extreme topography that makes building infeasible. The Project proposes no development on this land.<sup>5</sup>

The Project area is the former site of a large cement plant dating to the early 1900s, four quarries, and an underground mine.<sup>6</sup> Consequently, the site contains several hazardous wastes and hazardous constituents, such as cement kiln dust, total petroleum hydrocarbons, arsenic, lead, and nickel.<sup>7</sup> The Project would remediate all hazardous wastes and constituents at the site, in compliance with the California Department of Toxic Substances Control's contaminated site clean-up program requirements.<sup>8</sup> The Project DEIR estimates the Project's operations would generate 2,457 truck trips per day, equating to about one truck trip every 35 seconds, 24 hours a day, seven days a week.<sup>9</sup> The DEIR does not specify whether the warehouses would include cold storage or any other more intensive uses.

The Project is within the City of Jurupa Valley, and it borders the City of Rialto and an unincorporated area of San Bernardino County. The areas north and west of the Project are largely residential communities in Jurupa Valley and unincorporated San Bernardino County.<sup>10</sup> Industrial districts in Jurupa Valley and Rialto lie to the south and east of the Project, though the Jurupa Valley residential community of Belltown would be impacted by truck traffic flowing

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<sup>2</sup> DEIR at 3-13.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* The DEIR accounts for several alternatives. The City has indicated that the project applicant intends to proceed with Alternative 1, which calls for a 200,000 square-foot warehouse in the business park district, so all figures cited by this comment letter relate to that alternative.

<sup>5</sup> *Id.* at 3-13.

<sup>6</sup> *Id.* at 5.7-6.

<sup>7</sup> *Id.* at 5.7-11, 5.7-24 Table 5.7-4, 5.7-26 Table 5.7-7.

<sup>8</sup> *Id.* at 5.7-33 to 5.7-36.

<sup>9</sup> *Id.* at 5.2-32.

<sup>10</sup> *Id.* at 5.2-19 Fig. 5.2-1.

south of the Project.<sup>11</sup> The nearest sensitive receptors are residents of unincorporated San Bernardino County who live across the street from the Project, just over 100 feet away.<sup>12</sup>

The communities near the Project suffer from significant pollution and other disadvantages. According to CalEnviroScreen 3.0, CalEPA's screening tool that ranks each census tract in the state for pollution and vulnerability, the surrounding communities all rank in the worst ten percent for combined pollution and vulnerability.<sup>13</sup> Over eighty percent of residents are people of color. Overall education attainment levels are low, and poverty and linguistic isolation are high. The three census tracts covering the nearby communities are also all among the most polluted in the entire state.<sup>14</sup> These communities are particularly threatened by exposure to ozone, fine particulate matter, contaminated drinking water, contaminated groundwater, toxic cleanup sites, hazardous waste, and solid waste. These communities also suffer from high rates of cardiovascular disease, asthma, and babies born with a low birth weight, all of which are indicators of—and make the community more vulnerable to—the health impacts of pollution. This Project would add to the environmental and health problems faced by the families that live in this region.

One of the adjacent neighborhoods, in particular, has been especially harmed by warehouse development. The unincorporated community northeast of the Project site was once a small rural community surrounded by fields and a golf course. However, in the last twenty years, warehouses have been built on land to the east, north, and west of this community. If this Project is constructed, the community will be entirely surrounded by warehouses.<sup>15</sup>

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<sup>11</sup> *Id.* at 5.15-32 Fig. 5.15-7.

<sup>12</sup> *Id.* at 5.2-19 Fig. 5.2-1.

<sup>13</sup> CalEnviroScreen 3.0, available at <https://oehha.ca.gov/calenviroscreen> (as of January 17, 2019). CalEnviroScreen is a tool created by the Office of Environmental Health Hazard Assessment that uses environmental, health, and socioeconomic information to produce scores and rank every census tract in the state. A census tract with a high score is one that experiences a much higher pollution burden than a census tract with a low score. Office of Environmental Health Hazard Assessment, CalEnviroScreen 3.0 Report (January 2017), available at <https://oehha.ca.gov/media/downloads/calenviroscreen/report/ces3report.pdf>.

<sup>14</sup> Specifically, CalEnviroScreen data shows that these three census tracts rank in the worst 97, 98, and 100 percentile compared to the rest of the state.

<sup>15</sup> In addition, on January 13, 2020, Jurupa Valley released a notice of preparation for another warehouse development adjacent to this community and the Project. This project would site two additional warehouse buildings totaling 335,002 square feet just south of the community and east of the Project site, adding to the cumulative impacts of the Project and the other warehouses in the vicinity.

## II. THE CITY FAILED TO SUFFICIENTLY MITIGATE THE PROJECT'S SIGNIFICANT AIR QUALITY AND GREENHOUSE GAS IMPACTS.

An EIR must describe and adopt all feasible mitigation measures that minimize the significant environmental impacts of a project.<sup>16</sup> The lead agency is expected to develop mitigation in an open public process that considers measures proposed by interested agencies and the public.<sup>17</sup> The CEQA Guidelines provide that, “[w]here several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified.”<sup>18</sup> Further, mitigation measures must be fully enforceable and cannot be deferred to a future time.<sup>19</sup>

Due to the substantial emissions generated by the Project's truck traffic, the DEIR found significant and unavoidable air quality and greenhouse gas impacts.<sup>20</sup> Specifically, the DEIR determined that the Project's operational nitrogen oxide emissions would be over ten times the significance threshold established by the South Coast Air Quality Management District (SCAQMD) (569 pounds per day versus the 55 pounds per day threshold).<sup>21</sup> Nitrogen oxide is a primary precursor to formation of smog, and it causes respiratory problems like asthma, bronchitis, lung irritation, and lung cancer.<sup>22</sup> The DEIR also projected that volatile organic compound emissions would exceed significance thresholds during both construction and operation (105 pounds per day versus 75 during construction, and 130 pounds per day versus 55 during operation).<sup>23</sup> Exposure to volatile organic compounds can cause cancer; damage to the liver, kidney, and central nervous system; headaches; nausea; and eye, nose, and throat irritation.<sup>24</sup> Emissions of large particulate matter, which cause asthma, cardiovascular problems, and lung disease, were also projected to exceed the significance threshold during operation (156 pounds per day versus the 150 pounds per day threshold).<sup>25</sup> With respect to greenhouse gas emissions, the Project would generate 63,014 metric tons of CO<sub>2</sub>-equivalent emissions per year,

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<sup>16</sup> Pub. Resources Code, § 21002; CEQA Guidelines, § 15126.4, subd. (a)(1).

<sup>17</sup> *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 93.

<sup>18</sup> CEQA Guidelines, § 15126.4, subd. (a)(1)(B).

<sup>19</sup> *Id.*

<sup>20</sup> DEIR at 1-11 to 1-12, 1-34.

<sup>21</sup> DEIR at C1a-54 Table 3-7. Construction nitrogen oxide emissions would also exceed the significance threshold (194 pounds per day versus the 100 pounds per day threshold). DEIR at C1a-48 Table 3-5. The cited figures include all mitigation measures.

<sup>22</sup> *Id.* at 5.2-9 to 5.2-10.

<sup>23</sup> *Id.* at C1a-54 Table 3-7.

<sup>24</sup> United States Environmental Protection Agency, Volatile Organic Compounds' Impact on Indoor Air Quality, [https://www.epa.gov/indoor-air-quality-iaq/volatile-organic-compounds-impact-indoor-air-quality#Health\\_Effects](https://www.epa.gov/indoor-air-quality-iaq/volatile-organic-compounds-impact-indoor-air-quality#Health_Effects).

<sup>25</sup> DEIR at C1a-54 Table 3-7, 5.2-9 to 5.2-10.

over six times the SCAQMD significance threshold for industrial and warehouse projects of 10,000 metric tons of CO<sub>2</sub>-equivalent emissions.<sup>26</sup>

Despite these significant impacts, the DEIR includes only three minimal operational mitigation measures, none of which are guaranteed to reduce Project emissions. Two refer to existing state regulations or programs.<sup>27</sup> The third, which requires all buildings be designed with infrastructure to support future use of electric-powered on-site equipment, is unenforceably vague.<sup>28</sup> It does not specify whether electric chargers will be constructed, whether only electrical conduit will be installed, or something else. It also does not specify how much infrastructure is required (e.g., how many electric chargers). While this measure must be improved to comply with CEQA, more importantly, the DEIR fails to consider or adopt all feasible mitigation to reduce the significant air quality and greenhouse gas impacts.<sup>29</sup>

CEQA prohibits the City from approving the Project if there are other feasible measures to reduce the Project's impacts.<sup>30</sup> Numerous measures exist to further mitigate the Project's impacts on local community health, regional air quality, and greenhouse gas emissions—a list of measures is attached (Attachment A) to this comment for the City's consideration. Nearly all of these measures have been adopted in comparable or smaller projects, indicating that they are likely feasible. If the City declines to adopt the measures suggested in this comment, it must explain the basis for its decision as to each measure.<sup>31</sup>

Relatedly, the City should consider site design adjustments to reduce the adjacent disadvantaged community's exposure. For example, the City should reconsider the Project's driveway locations and turn restrictions. As currently designed, the site plan would route truck traffic past sensitive receptors on El Rivino Road, especially between Cactus and Hall Avenues. For example, a driveway with no turn restrictions is located at El Rivino Road and Cactus Avenue, allowing heavy trucks exiting the facility to turn right and travel past residences.<sup>32</sup> Likewise, heavy trucks entering the facility can travel past the residences and turn left into that driveway.<sup>33</sup> That driveway provides the most direct access to one of the Project's largest buildings, suggesting that it could see especially frequent use. Rather than expose sensitive receptors on El Rivino Road to the impacts of heavy truck traffic passing their homes, we urge

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<sup>26</sup> *Id.* at 5.6-29.

<sup>27</sup> The two mitigation measures require signs identifying the California Air Resources Board's prohibition on idling longer than 5 minutes and specify that the facility operator must "encourage" vendor trucks to take advantage of a state funding opportunity that reduces emissions through truck modernization and retrofits. *Id.* at 5.2-41.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 1-11 to 1-12, 1-34.

<sup>30</sup> Pub. Resources Code, sec. 21100, subd. (b)(3).

<sup>31</sup> *Los Angeles Unified Sch. Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1029.

<sup>32</sup> DEIR at 5.15-27 Fig. 5.15-5.

<sup>33</sup> *Id.*

the City to relocate driveways away from El Rivino Road and enact turn restrictions that will prevent trucks from traversing streets with fronting sensitive receptors.

Particularly given the Project's close proximity to a community of color that faces disproportionate levels of pollution, we urge the City to adopt all feasible measures and design changes to mitigate the Project's significant environmental effects. The Attorney General's Office would be happy to provide any assistance it can as the City considers how best to mitigate the Project's environmental impacts.

### **III. THE CITY MUST ANALYZE ALL REASONABLY FORESEEABLE AIR QUALITY IMPACTS.**

Under CEQA, the City must analyze all reasonably foreseeable Project impacts,<sup>34</sup> including the Project's various allowed uses. The DEIR does not state whether the Project would allow cold storage warehouses, and it only analyzes the impacts of standard, unrefrigerated warehouses.

Because refrigeration functions produce substantially more air pollution and greenhouse gas emissions, cold storage warehouses have greater air quality impacts than other types of warehouses. As the California Air Resources Board explains,

Transport Refrigeration Units (TRUs) are refrigeration systems powered by diesel internal combustion engines designed to refrigerate or heat perishable products that are transported in various containers, including semi-trailers, truck vans, shipping containers, and rail cars. Although TRU engines are relatively small, ranging from 9 to 36 horsepower, significant numbers of these engines congregate at distribution centers, truck stops, and other facilities, resulting in the potential for health risks to those that live and work nearby.<sup>35</sup>

To address this flaw in the DEIR, the City should either include a permit condition prohibiting refrigerated uses or analyze the air quality impacts of cold storage warehouse uses.

### **IV. THE CITY'S DEFINITION OF TRAFFIC NOISE SIGNIFICANCE THRESHOLDS IS FLAWED.**

Finally, the DEIR's analysis of traffic noise impacts is flawed. To determine whether an environmental impact is significant, lead agencies define a significance threshold and then compare a project's impacts to that threshold. While "CEQA grants agencies discretion to develop their own thresholds of significance," "[t]he determination of whether a project may have a significant effect on the environment calls for a careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data."<sup>36</sup> Moreover, a project has a significant effect on the environment if its impacts are "cumulatively considerable,"

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<sup>34</sup> *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 396.

<sup>35</sup> California Air Resources Board webpage entitled Transport Refrigeration Unit (TRU or Reefer) ACTM, available at <https://www.arb.ca.gov/diesel/tru/tru.htm>.

<sup>36</sup> *Mission Bay All. v. Office of Cmty. Inv. & Infrastructure* (2016) 6 Cal.App.5th 160, 206.

meaning that “the incremental effects of an individual project are considerable when viewed in connection with” past, present, and probable future projects.<sup>37</sup>

Here, the significance thresholds for transportation noise defined by the City do not appropriately capture significant noise impacts. The DEIR states that Project-generated transportation noise at a sensitive receptor is significant only if the baseline noise levels are below a certain level—65 dBA CNEL<sup>38</sup>—and the Project increases noise levels by at least 3 dBA CNEL to a noise level that is greater than 65 dBA CNEL.<sup>39</sup> For example, if an existing residence experiences noise of 63 dBA CNEL and the Project would increase that noise level 3 dBA to 66 dBA CNEL, the Project would have a significant noise impact. However, if an existing residence already experiences noise of 66 dBA CNEL and the Project would increase that noise level by any amount, the Project would not have a significant noise impact because baseline noise levels started out too high according to the threshold.

The requirement that baseline noise levels be below 65 dBA CNEL perversely means that no Project noise impact can be significant if baseline noise levels are at or above 65 dBA CNEL. This is important because, of the 40 locations where the DEIR measured traffic noise, 39 of them exceeded the baseline noise threshold and therefore, by definition, no significant noise impact could be found.<sup>40</sup> Consequently, because residents already suffer from excess noise, the Project can generate as much noise as it wants without creating a significant environmental impact.<sup>41</sup>

The significance threshold applied by the City is erroneous. It forecloses consideration of the Project’s impacts where background noise is high, and it also prevents consideration of the cumulative impact of adding the Project’s noise to the already-substantial noise in the area. If anything, the fact that the area is already so noisy, coupled with the logarithmic nature of the decibel scale, should mean that even small increases in noise are significant, not the opposite. “[A] threshold of significance cannot be applied in a way that would foreclose the consideration of other substantial evidence tending to show the environmental effect to which the threshold

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<sup>37</sup> Pub. Resources Code, § 21083, subd. (b)(2).

<sup>38</sup> dBA CNEL (or community noise equivalent level of A-weighted decibels) is a standard measurement consisting of a 24-hour average noise level that is A-weighted, which correlates sound pressure levels with the frequency response of a human ear, and time-weighted, which imposes penalties for noise occurring at sensitive times (such as late at night).

<sup>39</sup> DEIR at I-34 Table 4-1.

<sup>40</sup> DEIR at I-56 Table 7-1.

<sup>41</sup> For example, the DEIR found that the Project would increase existing noise at a local residence by 3.1 dBA CNEL from 69.3 to 72.4 dBA CNEL. DEIR at I-72 Table 7-16 (Location 29). At opening year 2020, the DEIR found that baseline noise at that same residence would be 71.1 dBA CNEL, and that the Project would increase noise by 2.3 dBA CNEL to 73.4 dBA CNEL. I-77 Table 7-20. According to the DEIR, 73.4 dBA CNEL is louder than being ten feet away from a vacuum cleaner and it can disturb sleep and interfere with normal conversation. DEIR at I-17. Moreover, residential noise of 73.4 dBA CNEL far exceeds what is even considered “conditionally acceptable” by the City General Plan’s Noise Element. DEIR at I-26.

relates might be significant.”<sup>42</sup> The City should revise its noise significance threshold, produce a new noise impact analysis, and adopt mitigation to reduce noise impacts to nearby sensitive receptors.

**V. THE FINAL EIR SHOULD DETAIL THE CITY’S COMMUNITY OUTREACH EFFORTS AND RESPOND TO COMMENTS RECEIVED.**

In 2011, the Attorney General’s Office intervened in a lawsuit brought by the Center for Community Action and Environmental Justice (CCA EJ) concerning a warehouse project in the City that is adjacent to Mira Loma Village. As part of the settlement of that lawsuit, the City and the project applicants agreed to several mitigation measures to reduce the air quality and traffic impacts of the project, which were incorporated into the February 14, 2013 Consent Judgment (a copy of which is attached). Among other measures, the Consent Judgment required the City to use its best efforts to analyze whether future projects may impact certain overburdened communities and sensitive populations, and to “incorporate outreach to, and encourage the participation of, overburdened communities and sensitive populations.”<sup>43</sup> The Consent Judgment requires that the City’s outreach to overburdened communities occur “as part of CEQA review” of any project.<sup>44</sup> In addition, the City’s General Plan includes an EJ Element with numerous policies to further “[m]eaningful participation in the public process by all members of the community.”<sup>45</sup>

The DEIR does not indicate whether the City conducted any targeted outreach to, or solicited any participation of, nearby overburdened communities and sensitive populations in the CEQA process. Instead, it vaguely states that “[t]he City will conduct community outreach with the surrounding neighborhood during the entitlement process.”<sup>46</sup> Through correspondence with the City and Viridian Partners, the Project developer, the Attorney General’s Office has learned that, after release of the DEIR, the City distributed notices about the Project and held a meeting near the affected neighborhoods where it described the Project and solicited feedback. We applaud the City’s efforts to engage with the impacted communities and comply with the Consent Judgment and EJ Element.<sup>47</sup> The Final EIR should detail the City’s community outreach efforts and respond to comments received at the community meeting. Moreover,

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<sup>42</sup> *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109.

<sup>43</sup> Consent Judgment, Exh A., §§ 1-2, p. 14.

<sup>44</sup> *Id.*

<sup>45</sup> City of Jurupa Valley General Plan, Environmental Justice Element, <https://www.jurupavalley.org/DocumentCenter/View/217/2017-Master-General-Plan-PDF>, at 9-8.

<sup>46</sup> DEIR at 5.9-37.

<sup>47</sup> However, note that EJ Element Policy 2.12 requires the City to “[i]nitiate outreach efforts as early as possible in the decision-making process before significant resources have been invested in a particular outcome.” EJ Element at 9-11.



DEIRs for future projects should contain a more robust explanation of the City's plan to comply with the Consent Judgment and EJ Element.

## **VI. CONCLUSION**

CEQA promotes public health and thoughtful governance by requiring evaluation, public disclosure, and mitigation of a project's significant environmental impacts before project approval. When implemented well, CEQA builds public trust and encourages sustainable development that will serve the local community for years to come. We urge the City to revise the DEIR and Project to adopt all feasible air quality and greenhouse gas mitigation and conduct an appropriate analysis of air quality and traffic noise impacts. The City should also describe its community engagement efforts and respond to comments it received at the community meeting in the Final EIR. We are available to provide assistance to the City as it works to comply with CEQA. Please do not hesitate to contact me if you have any questions or would like to discuss.

Sincerely,



ROBERT D. SWANSON  
Deputy Attorney General

For XAVIER BECERRA  
Attorney General

CC: Erik Zitek, Viridian Partners  
Jean Kayano, Center for Community Action and Environmental Justice

### **Attachment A: Air Quality and Greenhouse Gas Emission Mitigation Measures**

Measures to mitigate air quality and greenhouse gas impacts from construction include:

- Requiring off-road construction equipment to be electric, where available, and all diesel-fueled off-road construction equipment to be equipped with CARB Tier IV-compliant engines or better.
- Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.
- Requiring on-road haul trucks to be model year 2010 or newer if diesel-fueled.
- Providing electrical hook ups to the power grid for electric construction tools, such as saws, drills and compressors, and using electric tools whenever feasible.
- Limiting the amount of daily grading disturbance area.
- Prohibiting grading on days with an Air Quality Index forecast of greater than 100 for particulates or ozone for the project area.
- Forbidding idling of heavy equipment for more than three minutes.
- Keeping onsite and furnishing to the lead agency or other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classifications.
- Conducting an on-site inspection to verify compliance with construction mitigation and to identify other opportunities to further reduce construction impacts.
- Providing information on transit and ridesharing programs and services to construction employees.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations.

Measures to mitigate air quality and greenhouse gas impacts from operation include:

- Requiring that all facility-owned and operated fleet equipment with a gross vehicle weight rating greater than 14,000 pounds accessing the site meet or exceed 2010 model-year emissions equivalent engine standards as currently defined in California Code of Regulations Title 13, Division 3, Chapter 1, Article 4.5, Section 2025. Facility operators shall maintain records on-site demonstrating compliance with this requirement and shall make records available for inspection by the local jurisdiction, air district, and state upon request.
- Requiring all heavy-duty vehicles entering or operated on the project site to be zero-emission beginning in 2030.
- Requiring on-site equipment, such as forklifts and yard trucks, to be electric with the necessary electrical charging stations provided.
- Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.
- Forbidding trucks from idling for more than three minutes and requiring operators to turn off engines when not in use.

- Posting both interior- and exterior-facing signs, including signs directed at all dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the air district, and the building manager.
- Installing and maintaining air filtration systems at sensitive receptors within a certain radius of facility.
- Installing and maintaining an air monitoring station proximate to sensitive receptors and the facility. While air monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality.
- Constructing electric truck charging stations proportional to the number of dock doors at the project.
- Constructing plugs for transport refrigeration units at every dock door, if the warehouse use could include refrigeration.
- Constructing electric light-duty vehicle charging stations proportional to the number of parking spaces at the project.
- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel.
- Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.
- Requiring operators to establish and promote a rideshare program that discourages single-occupancy vehicle trips and provides financial incentives for alternate modes of transportation, including carpooling, public transit, and biking.
- Meeting CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking.
- Achieving certification of compliance with LEED green building standards.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations.
- Posting signs at every truck exit driveway providing directional information to the truck route.
- Requiring that every tenant train its staff in charge of keeping vehicle records in diesel technologies and compliance with CARB regulations, by attending California Air Resources Board-approved courses. Facility operators shall maintain records on-site demonstrating compliance with this requirement and shall make records available for inspection by the local jurisdiction, air district, and state upon request.
- Requiring tenants to enroll in the United States Environmental Protection Agency's SmartWay program, and requiring tenants to use carriers that are SmartWay carriers.

Attachment B: Mira Loma Consent Judgment

Exempt from Filing Fees pursuant to Government Code section 6103

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

FEB 14 2013

G. Reyes

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE

**CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE, a not-for-profit corporation,**

Petitioner,

v.

**COUNTY OF RIVERSIDE; CITY OF JURUPA VALLEY; and DOES 1 through 10, inclusive,**

Respondents,

**INVESTMENT BUILDING GROUP, a corporation; OBAYASHI CORPORATION, a corporation; DENNIS ROY ARCHITECT, INC., doing business as RGA OFFICE OF ARCHITECTURAL DESIGN, a corporation; O C REAL ESTATE MANAGEMENT, LLC, a limited liability corporation; SP4 DULLES LP, a limited partnership; and DOES 11 through 20, inclusive,**

Real Parties in Interest,

**PEOPLE OF THE STATE OF CALIFORNIA, ex rel. Kamala D. Harris, Attorney General,**

Intervenor/Petitioner.

Case No. RIC1112063

**[REDACTED] CONSENT JUDGMENT**

(Code Civ. Proc., § 664.6)

**Judge: Honorable Sharon Waters  
Dept: 1  
Action Filed: July 19, 2011**

1           This Consent Judgment and Stipulation for Entry of Final Judgment (“Consent Judgment”)  
2 is hereby stipulated and agreed to by, between, and among the County of Riverside (“County”),  
3 the City of Jurupa Valley (“City”), Obayashi Corporation, SP4 Dulles LP, and Investment  
4 Building Group as the general partner for the property owner 54 DeForest Partnership L.P.  
5 (collectively, “the Real Parties,” or “RPIs”), the Center for Community Action and  
6 Environmental Justice (“CCA EJ”), and the People of the State of California ex rel. Kamala D.  
7 Harris, Attorney General, (“People”) (each of whom shall be referred to individually as a “Party”  
8 or collectively as the “Parties”) to resolve all claims and actions raised in the above-captioned  
9 litigation, *Center for Community Action and Environmental Justice at el. v. County of Riverside et*  
10 *al.*, Riverside County Superior Court Case No. RIC1112063 (the “Litigation”), as follows:

11       **I.       RECITALS**

12           **A.**       On or about June 14, 2011, the County approved the Real Parties’ proposed  
13 development of Plot Plan Nos. 16979, 17788, 18875, 18876, 18877, and 18879 on 65.05 gross  
14 (60.37 net) acres with a total building area of 1,134,268 square feet (“The Project”). The  
15 County’s Project approvals included the adoption of Resolution Nos. 2011-170 and 2011-171, the  
16 certification of Environmental Impact Report (“EIR”) No. 450, and the adoption of the Mitigation  
17 Monitoring and Reporting Plan.

18           **B.**       On or about July 19, 2011, CCA EJ filed a Petition for Writ of Mandate and  
19 Petition for Injunctive Relief against the County, City, and Real Parties asserting alleged  
20 violations of California Environmental Quality Act (“CEQA”) and Government Code section  
21 11135 related to the County’s approvals of the Project and certification of the EIR.

22           **C.**       On or about October 5, 2011, the People filed a Complaint in Intervention and  
23 Petition for Writ of Mandate against the County, City, and Real Parties asserting alleged  
24 violations of CEQA related to the Project.

25           **D.**       The Parties agree that this Consent Judgment is a full and complete resolution of  
26 all claims that have been asserted in the Litigation, and further that the Parties covenant not to sue  
27 on certain other claims set out in paragraphs 4, 8, 11, and 12 of this Consent Judgment.

28

1           E.     The Parties agree that this Consent Judgment is entered into with the goal of  
2 achieving global settlement of any and all claims in the Litigation.

3     **II.     JURISDICTION**

4           The Parties agree that the Superior Court of California, County of Riverside has subject  
5 matter jurisdiction over the matters alleged in this Litigation and personal jurisdiction over the  
6 Parties to this Consent Judgment.

7     **III.    TERMS**

8           **NOW THEREFORE**, in consideration of the mutual covenants, agreements,  
9 representations, and warranties contained in this Consent Judgment, and other good and valuable  
10 consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby  
11 stipulate and agree to entry of this Consent Judgment, and agree to the terms as set forth below.

12           **A.     Exhibit "A".**

13           1.     All Parties agree to comply with the terms set forth in Exhibit "A" and  
14 accompanying Attachments, attached hereto and incorporated herein by reference.

15           **B.     The City's Obligations.**

16           2.     The City's execution of this Consent Judgment shall constitute final approval of  
17 any and all additional Project mitigation measures or Project features described in Exhibit "A"  
18 and accompanying attachments of this Consent Judgment. The Project approvals previously  
19 issued on or about June 14, 2011, shall be fully and finally effective on the date the Consent  
20 Judgment is entered by the Court, subject to the conditions of approval and mitigation measures  
21 set forth in this Consent Judgment or previously required.

22           3.     The City further agrees that, in calculating the expiration date for any and all  
23 Project approvals under the Project Condition of Approvals, the Subdivision Map Act, or other  
24 laws, the expiration date for those Project approvals shall not include the period of time during  
25 which this Litigation was pending. All applicable time periods associated with the Project  
26 approvals shall be stayed and extended for a time period commencing with the date the Petition in  
27 this Litigation was filed in the Superior Court for Riverside County and ending on the date the  
28 Consent Judgment is entered by the Court.

1           4.     City's Covenant Not to Sue. The City covenants not to pursue any civil or  
2 administrative claims against the People or against any agency of the State of California arising  
3 out of or related to the Litigation.

4           C.     Real Parties' Obligations.

5           5.     Without admitting any liability, and in consideration of the terms of the Consent  
6 Judgment, as a compromise and settlement only, and as full and final settlement of all outstanding  
7 claims for attorneys' and consultants' fees and costs of suit related to the Litigation, Real Parties  
8 agree to make three payments, as described in the following paragraphs.

9           6.     Real Parties agree to pay the sum of \$103,000 to CCAEJ (the "Settlement Payment  
10 1"). The Settlement Payment 1 will be in the form of a check made payable to "Johnson &  
11 Sedlack Client Trust Account" to be delivered to CCAEJ's counsel, Ray Johnson, within five (5)  
12 business days after the entry of this Consent Judgment. Except as set forth in this Paragraph,  
13 CCAEJ and their legal counsel specifically waive any right and/or claim to any additional  
14 attorneys' fees, costs, and/or consultant fees related to this Litigation and/or the Project.

15          7.     Real Parties shall pay to the City the actual attorney fees and litigation expenses  
16 incurred by the City in this Litigation, not to exceed Fifty Thousand Dollars (\$50,000). Upon the  
17 execution of this Consent Judgment by the Parties, the City shall notify the Real Parties of the  
18 total amount of its attorney fees and litigation expenses and the Real Parties shall pay said amount  
19 to the City within thirty (30) days of the date of entry of this Consent Judgment via check made  
20 out to City of Jurupa Valley.

21          8.     Real Parties' Covenant Not to Sue. The Real Parties, and each of them, covenant  
22 not to pursue any civil or administrative claims against the People or against any agency of the  
23 State of California arising out of or related to the Litigation.

24          9.     Timing of Payments Required by Exhibit "A". Within thirty (30) days of the entry  
25 of this Consent Judgment, Real Parties shall establish an escrow account with First American, the  
26 purpose of which shall be to hold in escrow the monetary sums set forth in Exhibit "A" that  
27 require Real Parties to make a monetary payment to the City. City shall maintain, including all  
28 administrative costs, the escrow account once established. These monetary sums shall be

1 deposited by the Real Parties in such a manner as to ensure release of those sums to the City as  
2 follows:

- 3 a. \$30,000 shall be released to the City in satisfaction of the Real Parties'  
4 obligation under the "Anti-Idling Enforcement" term within thirty (30)  
5 days of the entry of this Consent Judgment.
- 6 b. \$20,000 shall be released to the City in satisfaction of the Real Parties'  
7 obligation under the "Restricted Truck Route" term following the City's  
8 execution of a contract with a consultant retained to study and prepare  
9 environmental documentation of the restricted truck route and within ten  
10 (10) days of the city provision of written notice to the Real Parties of same.
- 11 c. \$20,000 shall be released to the City in satisfaction of the Real Parties'  
12 obligation under the "EJ Element in General Plan" term within twelve (12)  
13 months of the entry of this Consent Judgment or within two (2) weeks of  
14 the City's issuance of its Notice of Preparation or Notice of Intent prepare a  
15 CEQA document for its General Plan or an amendment to its General Plan  
16 that includes an EJ Element, whichever is sooner.

17 **D. CCA EJ's and People's Obligations.**

18 10. **Duty Not to Object or Disrupt Process for Project Approval.** CCA EJ, and each of  
19 their individual members have represented to all other Parties that they support this Consent  
20 Judgment and the Project with the conditions imposed by this Consent Judgment. CCA EJ, on  
21 behalf of itself, its current and future members, agents, successors, assigns, designees, affiliates,  
22 and officers, will not directly or indirectly object, oppose, delay, frustrate, or disrupt the full and  
23 complete approval of the Project – including the issuance of any grading permit, building permits,  
24 certificates of occupancy, or any other permits necessary for the implementation of the Project –  
25 subject to the terms and conditions of this Consent Judgment, nor will they directly or indirectly  
26 encourage or fund others to undertake those actions. CCA EJ, on behalf of itself, its current and  
27 future members, agents, successors, assigns, designees, affiliates, and officers, further agree that  
28



1 they will not submit or provide verbal or written comments to any decision-making body or  
2 public agency, or any other public agency that must issue a Project approval, that are critical of  
3 the Project or are intended to object to or oppose the full and complete approval of the Project,  
4 subject to the terms and conditions of this Consent Judgment. Further, CCAEJ, on behalf of itself,  
5 its current and future members, agents, successors, assigns, designees, affiliates, and officers,  
6 further agree that they will not directly or indirectly encourage or fund others to undertake the  
7 aforementioned actions.

8 11. CCAIEJ's Covenant Not to Sue. CCAIEJ, for itself and its current and future  
9 members, agents, successors, assigns, designees, affiliates, and officers, agree not to initiate,  
10 commence, or participate in any administrative appeal or lawsuit against the County, the City, the  
11 Real Parties, or any other public or private entity or the members, affiliates, partners, employees,  
12 or officers thereof relating to the Project's environmental review or approval – whether under  
13 CEQA, land use, or any other laws – except to enforce the terms of this Consent Judgment.  
14 CCAIEJ, for itself and its current and future members, employees, agents, successors, assigns,  
15 designees, affiliates, and officers, shall not sue (i.e., initiate, commence, or participate in any  
16 administrative appeal or lawsuit) to invalidate the Project and the use or modification of the  
17 Project including, but not limited to, any approvals needed for the development of any phase of  
18 the Project, as long as the development or use is consistent with the terms of this Consent  
19 Judgment. CCAIEJ, for itself and its current and future members, employees, agents, successors,  
20 assigns, designees, affiliates, and officers, further agree not to directly or indirectly encourage or  
21 fund others to undertake any of the actions described in this paragraph. The CCAIEJ specifically  
22 retains, however, the right to assert a claim, demand or cause of action challenging any failure by  
23 the County, the City, or Real Parties to comply with this Consent Judgment.

24 12. People's Covenant Not to Sue. The People agree not to initiate, commence, or  
25 participate in any administrative appeal or lawsuit against the City, the Real Parties, or the  
26 members, affiliates, partners, employees, or officers thereof for: (a) the claims that were raised in  
27 the Litigation; and (b) other CEQA claims that could have been asserted by the People based  
28 upon the acts, omissions, and/or events that are alleged in the People's Complaint in Intervention

1 or that relate to the County's Project approvals issued on or about June 14, 2011. The People  
2 specifically retain, however, the right to assert a claim, demand or cause of action challenging any  
3 failure by the County, the City, or Real Parties to comply with this Consent Judgment. Except as  
4 expressly provided herein, nothing in this Consent Judgment is intended nor shall be construed to  
5 limit the People from taking appropriate enforcement actions or otherwise exercising their  
6 authority under any law. Further, nothing in this Consent Judgment is intended nor shall be  
7 construed to limit the People from taking any action related to any future proposed project,  
8 including any future project that may be related to this Project.

9 13. CCAEJ will not publish or cause to be published any press release or other written  
10 public disclosure ("Release") concerning this Consent Judgment or the settlement of the  
11 Litigation without first providing the proposed Release to the Real Parties for review and  
12 comment. Real Parties shall be provided 48-hours in which to review and provide any comments  
13 or requested edits to CCAEJ concerning the Release. CCAEJ agrees to consider any comments  
14 or requested edits in good faith prior to finalizing and/or issuing the Release.

15 **E. General Terms.**

16 14. Entry of Judgment. The Parties jointly request that the Court enter this Consent  
17 Judgment as a final judgment in the above-captioned action.

18 15. Retention of Jurisdiction. Pursuant to section 664.6 of the Code of Civil  
19 Procedure, the Parties request that the Court shall retain continuing jurisdiction over this matter  
20 and the Parties for the purpose of interpreting and enforcing the terms of this Consent Judgment.

21 16. Limits. This Consent Judgment shall not be construed as creating any right or  
22 benefit, substantive or procedural, enforceable at law or in equity, by any Party against the City,  
23 the County, or any of their governmental agencies, departments, political subdivisions or any  
24 other public entities other than those set forth herein.

25 17. Notices. Any notice, request, or communication required to be given to the Parties  
26 under this Consent Judgment shall be given in writing and shall be personally delivered or mailed  
27 by prepaid registered or certified mail to the addresses below:  
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|---|--|
| County of Riverside   | Pamela J. Walls<br>Michelle Clack<br>Office of Riverside County Counsel<br>3960 Orange Street, Suite 500<br>Riverside, CA 92501<br>(951) 955-6300/Telephone<br>(951) 955-6363/Facsimile  |
| City of Jurupa Valley   | Peter M. Thorson<br>Ginetta L. Giovinco<br>Richards, Watson & Gershon PC<br>355 South Grand Avenue, 40th Floor<br>Los Angeles, California 90071-3101<br>(213) 626-8484/Telephone<br>(213) 626-0078/Facsimile   |
| Obayashi Corporation, SP4 Dulles LP, and Investment Building Group (as the general partner for the property owner 54 DeForest Partnership L.P.) | Michelle Ouellette<br>Best Best & Krieger LLP<br>P. O. Box 1028<br>Riverside, CA 92502<br>(951) 686-1450 Telephone<br>(951) 686-3083/Facsimile<br><br>and<br><br>SP4 Dulles LP<br>c/o Brent Steele, Director<br>CBRE Global Investors, LLC<br>515 S. Flower Street, Ste. 3100<br>Los Angeles, CA 90071 |
| Center for Community Action and Environmental Justice   | Raymond W. Johnson<br>Abigail A. Broedling<br>Kimberley Foy<br>Johnson & Sedlack<br>26785 Camino Seco<br>Temecula, CA 92590<br>(951) 506-9925/Telephone<br>(951) 506-9725/Facsimile  |
|   | Sarah E. Morrison<br>Deputy Attorney General<br>Office of the California Attorney General  |

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| Office of the California Attorney General | 300 S. Spring Street, Suite 1702<br>Los Angeles, CA 90013<br>(213) 897-2640/Telephone<br>(213) 897-2802/Facsimile |
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18. Entire Agreement. The Parties acknowledge that this Consent Judgment is signed and executed without reliance upon any actual or implied promises, warranties or representations made by any of the Parties or by any representative of any of the Parties, other than those which are expressly contained within this Consent Judgment. This Consent Judgment, including the true and correct Recitals above, inclusive of all definitions contained therein, that are incorporated by reference herein as operative covenants and specifically relied upon by the Parties in executing this Consent Judgment, constitutes the entire agreement and understanding among and between the Parties and supersedes any and all other agreements whether oral or written between the Parties.

19. California Civil Code Section 1542. Upon the Effective Date of this Consent Judgment, as that term is defined below, each of the Parties has read and has otherwise been informed of the meaning of Section 1542 of the California Civil Code, and has consulted with its respective counsel, to the extent that any was desired, and understands the provisions of Section 1542. Each of the Parties, except for the People, hereby expressly waives the rights and benefits conferred upon it by the provisions of Section 1542 of the California Civil Code, which provides:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

  
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County's Initials

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City's Initials

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Real Parties' Initials

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CCA EJ Initials

1 Office of the California Attorney General

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Real Parties' Initials

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27 County's Initials

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Real Parties' Initials

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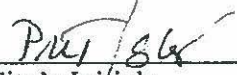
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| _____<br>County's Initials      | <br>_____<br>City's Initials |
| _____<br>Real Parties' Initials | _____<br>CCA EJ Initials  |



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25 THE DEBTOR."

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25 County's Initials

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27 Real Parties' Initials

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28 CCAEJ Initials

1           20.    Amendments and Modifications. This Consent Judgment may only be amended or  
2 modified on a noticed motion by one of the Parties with subsequent approval by the Court, or  
3 upon written consent by all of the Parties and the subsequent approval of the Court.

4           21.    Settlement, No Admissions by Parties. Each of the Parties acknowledges that this  
5 Consent Judgment relates to the avoidance of litigation and the preclusion of actions described  
6 above. The Parties, therefore, agree that this Consent Judgment is not to be treated or construed,  
7 at any time or in any manner whatsoever, as an admission by any Party that any of the allegations  
8 in the Litigation has merit.

9           22.    Choice of Law and Choice of Forum. This Consent Judgment shall be deemed to  
10 have been executed and delivered within the State of California; the rights and obligations of the  
11 Parties hereunder shall be governed, construed and enforced in accordance with the laws of the  
12 State of California. The venue for any dispute arising from or related to this Consent Judgment,  
13 its performance, and its interpretation shall be the Superior Court of California, County of  
14 Riverside.

15           23.    Joint Preparation. This Consent Judgment has been jointly drafted. No  
16 presumptions or rules of interpretation based upon the identity of the party preparing or drafting  
17 the Consent Judgment, or any part thereof, shall be applicable or invoked.

18           24.    Damages. The Parties agree that the sole and exclusive remedy for breach of this  
19 Consent Judgment shall be an action for specific performance or injunction. In no event shall any  
20 Party be entitled to monetary damages for breach of this Consent Judgment.

21           25.    Enforcement of Consent Judgment. No action for breach of this Consent  
22 Judgment shall be brought or maintained until: (a) the non-breaching Party provides written  
23 notice to the breaching Party which explains with particularity the nature of the claimed breach,  
24 and (b) within thirty (30) days after receipt of said notice, the breaching Party fails to cure the  
25 claimed breach or, in the case of a claimed breach which cannot be reasonably remedied within a  
26 thirty (30) day period, the breaching Party fails to commence to cure the claimed breach within  
27 such thirty (30) day period, and thereafter diligently complete the activities reasonably necessary  
28 to remedy the claimed breach.

1           26.    City Attorneys' Fees. Separate and apart from the Parties' obligations as described  
2 herein, the Real Parties and their successors in interest separately agree to indemnify the City of  
3 Jurupa Valley and hold it harmless for any damages it may incur or attorney fees and litigation  
4 expenses it may incur arising from any action brought by the Petitioners, the People or persons  
5 other than the Real Parties to enforce the terms of this Consent Judgment or to otherwise  
6 challenge the Project. In the event such litigation is filed and served on the City, the City shall  
7 promptly notify the Real Parties and their successors in interest and Real Parties and their  
8 successors in interest shall deposit with the City an amount for attorneys fees as litigation  
9 expenses as estimated by the City Attorney for the City of Jurupa Valley, which deposit shall be  
10 replenished as necessary.

11           27.    Authorized Signatory. Each Party represents and warrants to each other Party that  
12 its signature to this Consent Judgment has the authority to legally bind the Party, and this Consent  
13 Judgment does in fact bind the Party.

14           28.    Parties Bound. This Consent Judgment shall apply to and be binding upon the  
15 Parties and each of them, and their officers, directors, agents, trustees, successors, and assigns.

16           29.    People Not Liable. The People or any agency of the State of California shall not  
17 be liable for any injury or damage to persons or property resulting from acts or omissions by the  
18 County, City, or Real Parties, or their directors, officers, employees, agents, representatives or  
19 contractors, in carrying out activities pursuant to this Consent Judgment, nor shall the People or  
20 any agency of the State of California be held as a party to or guarantor of any contract entered  
21 into by the County, City or Real Parties in carrying out the requirements of this Consent  
22 Judgment.

23           30.    Effective Date. This Consent Judgment is effective as of the date on which the  
24 Court enters this Consent Judgment on the Court's docket.

25           31.    Counterparts. This Consent Judgment may be executed in counterparts and when  
26 so executed by the Parties, shall become binding upon them and each such counterpart will be an  
27 original document.

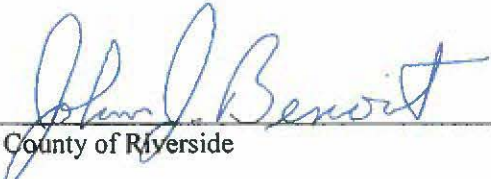
28           32.    Costs and Attorneys' Fees. Except to the extent provided above, no party shall

1 claim costs or attorneys' fees from any other Party related to the Litigation. Further, each Party  
2 agrees that the terms of this Consent Judgment do not establish any Party as a "prevailing party"  
3 for purposes of claiming either costs or attorneys fees, and each Party specifically waives any  
4 other right that Party may have to seek costs or attorneys fees related to the Litigation.

5 **IT IS SO STIPULATED AND AGREED.**

6  
7 **RESPONDENT COUNTY OF RIVERSIDE**

8 Dated: 1/31/13

  
for County of Riverside

9 **ATTEST:**  
10 **KECIA HARPER-IHEM, Clerk**

11 By   
**DEPUTY**

by \_\_\_\_\_

12 **RESPONDENT CITY OF JURUPA VALLEY**

13 Dated: \_\_\_\_\_

\_\_\_\_\_  
Laura Roughton, Mayor, for City of Jurupa Valley

14  
15  
16 **REAL PARTIES IN INTEREST**

17  
18  
19 Dated: \_\_\_\_\_

\_\_\_\_\_  
for Obayashi Corporation

by \_\_\_\_\_

20  
21  
22 Dated: \_\_\_\_\_

\_\_\_\_\_  
for Investment Building Group, as the general  
partner for 54 DeForest Partnership L.P.

by \_\_\_\_\_

23  
24  
25  
26 Dated: \_\_\_\_\_

\_\_\_\_\_  
for SP4 Dulles LP

by \_\_\_\_\_

1 claim costs or attorneys' fees from any other Party related to the Litigation. Further, each Party  
2 agrees that the terms of this Consent Judgment do not establish any Party as a "prevailing party"  
3 for purposes of claiming either costs or attorneys fees, and each Party specifically waives any  
4 other right that Party may have to seek costs or attorneys fees related to the Litigation.

5 **IT IS SO STIPULATED AND AGREED.**

6  
7 **RESPONDENT COUNTY OF RIVERSIDE**

8 Dated: \_\_\_\_\_  
9 \_\_\_\_\_  
10 for County of Riverside  
11 by \_\_\_\_\_

12 **RESPONDENT CITY OF JURUPA VALLEY**

13 Dated: \_\_\_\_\_  
14 \_\_\_\_\_  
15 Verne Lauritzen, Mayor, for City of Jurupa Valley

16 **REAL PARTIES IN INTEREST**

17  
18  
19 Dated: \_\_\_\_\_  
20 \_\_\_\_\_  
21 for Obayashi Corporation  
22 by \_\_\_\_\_

23 Dated: \_\_\_\_\_  
24 \_\_\_\_\_  
25 for Investment Building Group, as the general  
26 partner for 54 DeForest Partnership L.P.  
27 by \_\_\_\_\_

28 Dated: \_\_\_\_\_  
\_\_\_\_\_  
for SP4 Dulles LP  
by \_\_\_\_\_

1 claim costs or attorneys' fees from any other Party related to the Litigation. Further, each Party  
2 agrees that the terms of this Consent Judgment do not establish any Party as a "prevailing party"  
3 for purposes of claiming either costs or attorneys fees, and each Party specifically waives any  
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5 **IT IS SO STIPULATED AND AGREED.**

6  
7 **RESPONDENT COUNTY OF RIVERSIDE**

8 Dated: \_\_\_\_\_  
9 \_\_\_\_\_  
10 for County of Riverside  
11 by \_\_\_\_\_

12 **RESPONDENT CITY OF JURUPA VALLEY**

13 Dated: \_\_\_\_\_  
14 \_\_\_\_\_  
15 Laura Roughton, Mayor, for City of Jurupa Valley

16 **REAL PARTIES IN INTEREST**

17  
18  
19 Dated: Jan. 16, 2013  
20 \_\_\_\_\_  
21 for Obayashi Corporation  
22 by Yoshiharu Nakamura, Executive Officer

23 Dated: \_\_\_\_\_  
24 \_\_\_\_\_  
25 for Investment Building Group, as the general  
26 partner for 54 DeForest Partnership L.P.  
27 by \_\_\_\_\_

28 Dated: \_\_\_\_\_  
\_\_\_\_\_ for SP4 Dulles LP  
by \_\_\_\_\_

1 claim costs or attorneys' fees from any other Party related to the Litigation. Further, each Party  
2 agrees that the terms of this Consent Judgment do not establish any Party as a "prevailing party"  
3 for purposes of claiming either costs or attorneys fees, and each Party specifically waives any  
4 other right that Party may have to seek costs or attorneys fees related to the Litigation.

5 **IT IS SO STIPULATED AND AGREED.**

6  
7 RESPONDENT COUNTY OF RIVERSIDE

8 Dated: \_\_\_\_\_  
9 \_\_\_\_\_  
10 for County of Riverside  
11 by \_\_\_\_\_

12 RESPONDENT CITY OF JURUPA VALLEY

13 Dated: \_\_\_\_\_  
14 \_\_\_\_\_  
15 Laura Roughton, Mayor, for City of Jurupa Valley

16 REAL PARTIES IN INTEREST

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19 Dated: \_\_\_\_\_  
20 \_\_\_\_\_  
21 for Obayashi Corporation  
22 by \_\_\_\_\_

23 Dated: 1/3/13  
24 \_\_\_\_\_  
25 for Investment Building Group, as the general  
26 partner for 54 DeForest Partnership L.P.  
27 by JACK M. LANGSON, PRESIDENT

28 Dated: \_\_\_\_\_  
\_\_\_\_\_ for SP4 Dulles LP  
by \_\_\_\_\_

1 claim costs or attorneys' fees from any other Party related to the Litigation. Further, each Party  
2 agrees that the terms of this Consent Judgment do not establish any Party as a "prevailing party"  
3 for purposes of claiming either costs or attorneys fees, and each Party specifically waives any  
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5 **IT IS SO STIPULATED AND AGREED.**

6

7 **RESPONDENT COUNTY OF RIVERSIDE**

8 Dated: \_\_\_\_\_  
9 \_\_\_\_\_  
10 for County of Riverside  
11 by \_\_\_\_\_


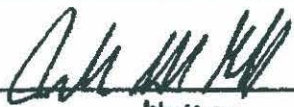
12 **RESPONDENT CITY OF JURUPA VALLEY**

13 Dated: \_\_\_\_\_  
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15 Laura Roughton, Mayor, for City of Jurupa Valley

16 **REAL PARTIES IN INTEREST**

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19 Dated: \_\_\_\_\_  
20 \_\_\_\_\_  
21 for Obayashi Corporation  
22 by \_\_\_\_\_

23 Dated: \_\_\_\_\_  
24 \_\_\_\_\_  
25 for Investment Building Group, as the general  
26 partner for 54 DeForest Partnership L.P.  
27 by \_\_\_\_\_


28 Dated: 1/9/13  
\_\_\_\_\_ for SP4 Dallas LP  
by    
Philip G. Hench John M. Gib  
Vice President Vice President



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PETITIONER CENTER FOR COMMUNITY ACTION  
AND ENVIRONMENTAL JUSTICE

Dated: Jan. 10, 2013

  
for Center for Community Action and  
Environmental Justice  
by Penny J. Newman, Ex. Dir.

INTERVENOR PEOPLE OF STATE OF CALIFORNIA

KAMALA D. HARRIS  
Attorney General of California

Dated: \_\_\_\_\_

\_\_\_\_\_  
SARAH E. MORRISON  
Deputy Attorney General

Attorneys for Intervenor People of the State of  
California, ex rel. Kamala D. Harris,  
Attorney General

Approved as to form by:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Pamela J. Walls, County Counsel  
for the County of Riverside

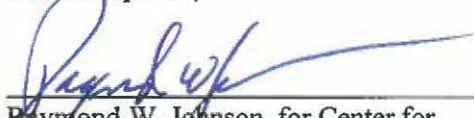
Dated: \_\_\_\_\_

\_\_\_\_\_  
Peter M. Thorson, City Attorney  
for the City of Jurupa Valley

Dated: \_\_\_\_\_

\_\_\_\_\_  
Michelle Ouellette, for Obayashi Corporation, SP4  
Dulles LP, and Investment Building Group (as the  
general partner for the property owner 54 DeForest  
Partnership L.P.)

Dated: Jan 10, 2013

  
Raymond W. Johnson, for Center for  
Community Action and Environmental Justice

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PETITIONER CENTER FOR COMMUNITY ACTION  
AND ENVIRONMENTAL JUSTICE

Dated: \_\_\_\_\_

\_\_\_\_\_  
for Center for Community Action and  
Environmental Justice  
by \_\_\_\_\_

INTERVENOR PEOPLE OF STATE OF CALIFORNIA

KAMALA D. HARRIS  
Attorney General of California

Dated: 1/2/13

  
\_\_\_\_\_  
SARAH E. MORRISON  
Deputy Attorney General

Attorneys for Intervenor People of the State of  
California, ex rel. Kamala D. Harris,  
Attorney General

**Approved as to form by:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Pamela J. Walls, County Counsel  
for the County of Riverside

Dated: \_\_\_\_\_

\_\_\_\_\_  
Peter M. Thorson, City Attorney  
for the City of Jurupa Valley

Dated: \_\_\_\_\_

\_\_\_\_\_  
Michelle Ouellette, for Obayashi Corporation, SP4  
Dulles LP, and Investment Building Group (as the  
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Partnership L.P.)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Raymond W. Johnson, for Center for  
Community Action and Environmental Justice

1 PETITIONER CENTER FOR COMMUNITY ACTION  
2 AND ENVIRONMENTAL JUSTICE

3 Dated: \_\_\_\_\_

\_\_\_\_\_ for Center for Community Action and  
4 Environmental Justice  
5 by \_\_\_\_\_

6 INTERVENOR PEOPLE OF STATE OF CALIFORNIA

7  
8 KAMALA D. HARRIS  
9 Attorney General of California


10 Dated: \_\_\_\_\_

\_\_\_\_\_ SARAH E. MORRISON  
11 Deputy Attorney General

12 Attorneys for Intervenor People of the State of  
13 California, ex rel. Kamala D. Harris,  
14 Attorney General

15 **Approved as to form by:**

16 Dated: 1/30/13

17   
\_\_\_\_\_ Pamela J. Walls, County Counsel  
18 for the County of Riverside

19 Michelle Clack *Deputy County Counsel*

20 Dated: \_\_\_\_\_

\_\_\_\_\_ Peter M. Thorson, City Attorney  
21 for the City of Jurupa Valley

22 Dated: \_\_\_\_\_

\_\_\_\_\_ Michelle Ouellette, for Obayashi Corporation, SP4  
23 Dulles LP, and Investment Building Group (as the  
24 general partner for the property owner 54 DeForest  
25 Partnership L.P.)

26 Dated: \_\_\_\_\_

\_\_\_\_\_ Raymond W. Johnson, for Center for  
27 Community Action and Environmental Justice  
28

1 PETITIONER CENTER FOR COMMUNITY ACTION  
2 AND ENVIRONMENTAL JUSTICE

3 Dated: \_\_\_\_\_

\_\_\_\_\_ for Center for Community Action and  
4 Environmental Justice  
5 by \_\_\_\_\_

6  
7 INTERVENOR PEOPLE OF STATE OF CALIFORNIA

8 KAMALA D. HARRIS  
9 Attorney General of California

10 Dated: \_\_\_\_\_


11 SARAH E. MORRISON  
12 Deputy Attorney General  
13 Attorneys for Intervenor People of the State of  
14 California, ex rel. Kamala D. Harris,  
15 Attorney General

16 **Approved as to form by:**

17 Dated: \_\_\_\_\_

18 Pamela J. Walls, County Counsel  
19 for the County of Riverside

20 Dated: January 17, 2013

21   
22 Peter M. Thorson, City Attorney  
23 for the City of Jurupa Valley

24 Dated: \_\_\_\_\_

25 Michelle Ouellette, for Obayashi Corporation, SP4  
26 Dulles LP, and Investment Building Group (as the  
27 general partner for the property owner 54 DeForest  
28 Partnership L.P.)

Dated: \_\_\_\_\_

Raymond W. Johnson, for Center for  
Community Action and Environmental Justice

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PETITIONER CENTER FOR COMMUNITY ACTION  
AND ENVIRONMENTAL JUSTICE

Dated: \_\_\_\_\_  
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by \_\_\_\_\_

INTERVENOR PEOPLE OF STATE OF CALIFORNIA

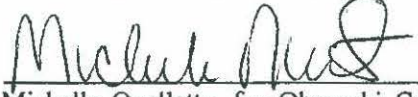
KAMALA D. HARRIS  
Attorney General of California

Dated: \_\_\_\_\_  
SARAH E. MORRISON  
Deputy Attorney General  
  
Attorneys for Intervenor People of the State of  
California, ex rel. Kamala D. Harris,  
Attorney General

Approved as to form by:

Dated: \_\_\_\_\_  
Pamela J. Walls, County Counsel  
for the County of Riverside

Dated: \_\_\_\_\_  
Peter M. Thorson, City Attorney  
for the City of Jurupa Valley

Dated: January 17, 2013   
Michelle Ouellette, for Obayashi Corporation, SP4  
Dulles LP, and Investment Building Group (as the  
general partner for the property owner 54 DeForest  
Partnership L.P.)

Dated: \_\_\_\_\_  
Raymond W. Johnson, for Center for  
Community Action and Environmental Justice

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**IT IS SO ORDERED, ADJUDGED AND DECREED.**

Dated: FEB 14 2013

**Daniel A. Ottolia**

Honorable Judge ~~Sharon Wilson~~  
Judge of the Superior Court

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## EXHIBIT A

**1. EJ Element in General Plan:** Within the timeframes for adopting or updating general plans as required by law, as part of the proceedings of the City of Jurupa Valley (City) to adopt or update its General Plan, City agrees to use its best efforts to prepare an environmental justice element that includes specific policies, analyze any impacts of that element in any CEQA document prepared for the General Plan, and hold hearings or conduct other proceedings to consider the adoption of that environmental justice element. The environmental justice element prepared by the City shall be consistent with the California Office of Planning & Research (“OPR”) General Plan Guidelines concerning environmental justice as they now exist or may hereafter be amended, and the Office of the Attorney General’s guidance entitled, Environmental Justice at the Local and Regional Level – Legal Background (dated July 10, 2012), a copy of which is attached to the Consent Judgment as Exhibit B. The Real Parties in Interest (RPIs) shall contribute a total of \$20,000 toward the preparation and consideration of the general plan element by the City.

The Parties understand and agree that, in the context of the City’s processing its General Plan, including any Environmental Justice element, the City cannot guarantee the ultimate outcome of any public hearings before the City’s Planning Commission or City Council, nor prevent any opposition thereto by members of the public affected by or interested in the General Plan. The Parties recognize that the adoption or amendment of the General Plan is a discretionary act and that nothing in this Consent Judgment limits, in any manner, the City’s exercise of its police power under the California Constitution. Nothing in this Consent Judgment limits the City’s discretion to determine what policies and provisions should be included in the environmental justice element. Subject to the foregoing, the City, to the extent allowed by law, shall facilitate and promote the proceedings necessary to complete processing of its General Plan and consideration of an Environmental Justice Element in the General Plan.

**2. CEQA Analysis for Particular Future Projects to Address Impacts to Overburdened and Sensitive Communities:** To further environmental justice, as defined to include the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, the City agrees to use its best efforts to analyze, as part of CEQA review, whether projects may impact certain overburdened communities and sensitive populations, including low income communities and communities of color. This analysis shall incorporate outreach to, and encourage the participation of, overburdened communities and sensitive populations, and shall be consistent with specific standards, including CEQA and the CEQA Guidelines, (Cal. Code Regs., tit. 14, § 15000 *et seq.*), and the Office of the Attorney General’s guidance entitled, Environmental Justice at the Local and Regional Level – Legal Background (dated July 10, 2012), a copy of which is attached to the Consent Judgment as Exhibit B. The requirement to analyze impacts to overburdened and sensitive communities as part of CEQA review shall be included as a policy/action in any EJ element that the City may adopt for its General Plan.

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1       **3.     Restricted Truck Route:** Within fifteen (15) months of the entry of the Consent  
2 Judgment, the City agrees to use its best efforts to conduct proceedings for the adoption  
3 of an ordinance restricting trucks with gross vehicle weight rating (“GVWR”) over  
4 16,000 lbs. from accessing the portion of Etiwanda Avenue adjacent to Mira Loma  
5 Village (between the 60 Freeway and Hopkins Street). The restricted truck route  
6 ordinance proceedings shall comply with the California Environmental Quality Act  
7 (CEQA), and may include a study to determine if there are potential alternate routes for  
8 trucks with GVWR over 16,000 lbs on roadways other than Etiwanda Avenue described  
9 above. In the event that the City does not adopt a restricted truck route ordinance within  
10 two years of the entry of the Consent Judgment, then the RPIs agree that a new condition  
11 of approval will apply to the Project. That new condition shall require that the  
12 developers/owners of the Project request of all initial tenants, in writing, that any trucks  
13 accessing the Project site with GVWR over 16,000 lbs. owned or operated by tenants of  
14 the Project buildings avoid traveling on the portion of Etiwanda Avenue adjacent to Mira  
15 Loma Village (between the 60 Freeway and Hopkins Street).

16       The Parties understand and agree that, in the context of the City’s processing an  
17 ordinance designating a restricted truck route, the City cannot guarantee the ultimate  
18 outcome of any public hearings before the City’s Planning Commissions or City Council,  
19 nor prevent any opposition thereto by members of the public affected by or interested in  
20 the proposed truck route. The Parties recognize that the adoption of a restricted truck  
21 route ordinance is a discretionary act and that nothing in this Consent Judgment limits, in  
22 any manner, the City’s exercise of its police power under the California Constitution.  
23 Subject to the foregoing, the City, to the extent allowed by law, shall facilitate and  
24 promote the proceedings necessary to complete processing of an restricted truck route.

25       As part of its settlement of the Litigation, RPIs have specifically requested the City to  
26 include this term as a mitigation measure for the Project as set forth in Attachment 1 to  
27 this Exhibit and the City agrees to honor RPIs' request. RPIs agree to contribute a total  
28 of \$20,000 to the City for the cost of the study and environmental review associated with  
the restricted truck route payable to the City within the time period set forth in the  
Consent Judgment. The City shall not be obligated to expend any funding beyond this  
sum for the study. If additional funding for the study associated with the restricted truck  
route proceedings is needed, the City may apply to the Center for Community Action  
and Environmental Justice (CCA EJ) for additional funding from the Mira Loma  
Mitigation Trust Account (“Trust Account”) described in Paragraph 12 of this Exhibit.

1       **4.     Air Filtration Systems:** RPIs agree to fund the purchase, installation and  
2 maintenance of in-home air filtration systems for each residential parcel within Mira  
3 Loma Village, at a total cost of \$1,700 per parcel, plus an additional \$43,000 sum to  
4 cover administration costs. RPIs’ provision of funding shall constitute its sole obligation  
5 with regard to this term. The air filtration systems shall be selected by the owners of  
6 each parcel, although recommendations as to the filtration systems selected may be  
7 provided to the parcel owners by the CCA EJ in consultation with South Coast Air  
8 Quality Management District (“SCAQMD”). A map of the Mira Loma Village and the  
9 103 eligible residential parcels is attached hereto as Attachment 2. The air filtration  
10 funds provided by the RPIs will be deposited into the Trust Account described in  
11 Paragraph 12 of this Exhibit. In the event that CCA EJ, in consultation with SCAQMD,



1 determines that the air filtration systems will not be effective or necessary, the funds  
2 designated for air filtration systems in the Trust Account will be available to fund other  
3 mitigation to reduce the Project's air quality impacts, as determined by CCAEJ in  
4 consultation with the Attorney General's Office and SCAQMD. If the air filtration  
5 systems are determined by CCAEJ to be effective, then the designated funds in the Trust  
6 Account shall be distributed to Mira Loma Village residents upon presentation to the  
7 trust administrator of evidence showing that the resident is a parcel owner and receipts  
8 documenting air filtration system purchase, installation, and/or maintenance costs and/or  
9 expenditures on other air quality mitigation expenditures. Similarly, designated funds in  
10 the Trust Account may also be distributed directly to air filtration contractors or  
11 installers upon presentation to the trust administrator of an invoice or other evidence  
12 documenting that the contractor or installer has – on behalf of a parcel owner –  
13 purchased, installed, or maintained an air filtration system or made other air quality  
14 mitigation expenditures. As part of its settlement of the Litigation, RPIs have  
15 specifically requested the City to include this term as a mitigation measure for the  
16 Project as set forth in Attachment 1 to this Exhibit, and the City agrees to honor RPIs'  
17 request.

11 **5. Anti-Idling Enforcement:** Within seven (7) months from the entry of the  
12 Consent Judgment, the City agrees to use its best efforts to implement a program to  
13 enforce the Air Resources Board's ("ARB") anti-idling regulation (Cal. Code Regs., tit.  
14 13, § 2485) either through its enforcement of the ARB Regulations or through its  
15 adoption of a City truck anti-idling ordinance.

15 The City further agrees to the hiring/assigning of a code enforcement officer, whose  
16 duties shall include the enforcement of ARB's anti-idling regulation on a City-wide  
17 basis, including the vicinity of the Project. The extent of enforcement activity and the  
18 hiring or assigning of a code enforcement officer for the truck anti-idling enforcement  
19 program shall be subject to the City Council's discretion in establishing budget priorities  
20 for the City and the consequent budgeting of funds for enforcement of the truck anti-  
21 idling program. The Parties recognize that the enforcement of anti-idling regulations is a  
22 discretionary act and that nothing in this Consent Judgment limits, in any manner, the  
23 City's exercise of its police power under the California Constitution. As part of its  
24 settlement of the Litigation, RPIs have specifically requested the City to include this  
25 term as a mitigation measure for the Project as set forth in Attachment 1 to this Exhibit,  
26 and the City agrees to honor RPIs' request. The City recognizes that this measure  
27 applies on a City-wide basis and is not solely applicable to the Project.

23 The RPIs agree to pay the City a total of \$30,000 toward the costs associated with the  
24 City's code enforcement program.

25 **6. Clean Trucks:** In place of Plot Plan 17788 Condition of Approval  
26 10.Planning.52 (which applies *only* to Plot Plan 17788), RPIs agree that the  
27 developers/owners of *all* Project plot plans shall establish a diesel minimization plan  
28 requiring that at least 90 percent of the trucks with GVWR greater than 16,000 lbs. that  
both visit the Project site and are owned or operated by a tenant of one of the Plot Plan  
buildings, shall meet or exceed 2007 model year emissions equivalent engine standards  
as currently defined in California Code of Regulations Title 13, Division 3, Chapter 1,

1 Article 4.5, Section 2025. From the date the Consent Judgment is entered and for ten  
2 years thereafter, Project tenants who own or operate the trucks described above shall  
3 maintain evidence of compliance with the diesel minimization plan, including license  
4 plates, engine model year, retrofit technology if applicable, and engine family name.  
5 Evidence of compliance shall be available for inspection upon reasonable notice  
6 provided to the owner/operator of a request to inspect such documentation. As part of its  
7 settlement of the Litigation, RPIs have specifically requested the City to include this  
8 term as a mitigation measure for the Project as set forth in Attachment 1 to this Exhibit,  
9 and the City agrees to honor RPIs' request.

7 **7. Buffers:** RPIs agree that Plot Plan 18876 shall include a partially landscaped  
8 setback between the Mira Loma Village houses and the buildings within Plot Plan 18876  
9 along the northern boundary of Mira Loma Village. The setback shall be as determined  
10 by the property owner but in no event shall be less than sixty-six (66) feet wide as  
11 measured from the edge of the buildings within Plot Plan 18876 to the existing wall  
12 separating Mira Loma Village from Plot Plan 18876. Concurrent with the construction  
13 of Plot Plan buildings adjacent to the Mira Loma Village, RPIs agree to enhance the  
14 vegetative portions of the setback and buffer zones along the northern and eastern  
15 boundaries of Mira Loma Village within the Project site. Specifically, RPIs will plant  
16 and maintain a vegetative buffer zone along the northern boundary of the Mira Loma  
17 Village (in Plot Plan 18876) in a manner determined by the property owner, but  
18 including not less than twenty 24" box California Pepper Trees and ten 24" box  
19 Bottlebrush Trees (these trees having been selected by CCAEJ in order to reduce diesel  
20 particulate matter.) Additionally, Plot Plan 18876 shall include not fewer than eight 24"  
21 box Sycamore Trees in its parking lot adjacent to the northern boundary of Mira Loma  
22 Village. The RPIs further agree to, concurrent with the construction of Plot Plan  
23 buildings adjacent to the Mira Loma Village, landscape the areas being dedicated by the  
24 Project as public parks near the Mira Loma Village's eastern boundary (a total of  
25 approximately 52,000 square feet) with drought tolerant plants, including not less than  
26 50% Buffalo Grass turf by area, and, further, to provide a vegetative buffer in those park  
27 areas and along the remainder of the Mira Loma Village's eastern edge, including not  
28 less than eight 24" box American Sycamore trees, twenty 24" box California Pepper  
Trees, and not fewer than fifteen 24" box Bottlebrush trees (each tree type having been  
selected by CCAEJ in order to reduce diesel particulate matter). Additionally, Plot Plans  
18877 and 18879 shall include a combined total of not less than eight 24" box American  
Sycamore trees in their parking lots adjacent to the eastern boundary of Mira Loma  
Village. Additionally, RPIs agree to modify the Project buildings immediately adjacent  
to the Mira Loma Village's northern boundary by reducing the elevated building  
parapets in order to reduce visual impacts. Finally, RPIs shall offer not less than two  
24" box shade trees to each of the ten property owners who own a home immediately  
adjacent to the southern boundary of Plot Plan 18876. As part of its settlement of the  
Litigation, RPIs have specifically requested the City to include this term as a mitigation  
measure for the Project as set forth in Attachment 1 to this Exhibit, and the City agrees  
to honor RPIs' request.

8. **8. Photovoltaic Installation:** RPIs agree that all Project buildings in excess of  
100,000 square feet will be constructed as solar-ready buildings (including the upgrade  
of building structural, electrical and roofing systems in a manner sufficient to support the

1 installations of photovoltaic solar systems). RPIs also agree to apply to Southern  
2 California Edison's ("SCE") solar program and to other programs that may provide  
3 financing for the installation of solar photovoltaic systems ("PV Systems") on the  
4 Project site. To the extent that RPIs obtain a grant or rebate providing a financial offset  
5 for the cost of PV Systems, RPIs shall install PV solar capacity up to the amount of the  
6 grant or rebate but in no event would the PV Systems be less than 100 kW. To the  
7 extent that RPIs do not obtain a grant or rebate, RPIs shall install one or more PV  
8 Systems on the Project site providing a Project-wide total of 100 kW capacity. In the  
9 event that there are alternatives to PV Systems deemed reasonably equivalent in  
10 reducing/offsetting global greenhouse affects, if the alternatives are approved by the  
11 Attorney General's Office and CCAEJ, the RPIs may at their election implement those  
12 in place of the PV Systems. As part of its settlement of the Litigation, RPIs have  
13 specifically requested the City to include this term as a mitigation measure for the  
14 Project as set forth in Attachment 1 to this Exhibit, and the City agrees to honor RPIs'  
15 request.

10 **9. Air Monitoring:** RPIs agree to provide a total of \$85,000 in order to fund  
11 activities related to measuring black carbon levels and/or other indicators of diesel  
12 particulate matter in the Mira Loma Village vicinity, including the installation and  
13 maintenance of an air monitoring station. RPIs' provision of funding shall constitute its  
14 sole obligation with regard to this term. Any air monitoring data from the air monitoring  
15 station shall be made available to CCAEJ and SCAQMD in a manner to be determined  
16 by CCAEJ and SCAQMD during the design and installation of the air monitoring  
17 station. The air monitoring funds will be deposited by RPIs into the Trust Account  
18 described in Paragraph 12 of this Exhibit. In the event that CCAEJ, in consultation with  
19 SCAQMD, determines that the air monitoring activities will not be effective or  
20 necessary, or that the use of the funds for other mitigation, such as the donation of the  
21 funds to the City of Jurupa Valley for the completion of the Restricted Truck Route term  
22 is preferable, the funds designated for air monitoring in the Trust Account will be  
23 available to fund such other mitigation to reduce the Project's air quality impacts, as  
24 determined by CCAEJ in consultation with the Attorney General's Office and  
25 SCAQMD. As part of its settlement of the Litigation, RPIs have specifically requested  
26 the City to include this term as a mitigation measure for the Project as set forth in  
27 Attachment 1 to this Exhibit, and the City agrees to honor RPIs' request.

21 **10. Electrification:** RPIs agree to install and maintain a minimum of two Level 2  
22 Electric Vehicle Supply Equipment ("EVSE") at each Plot Plan with buildings in excess  
23 of 100,000 square feet, placed in a manner that allows charging of trucks or vehicles at  
24 each loading dock of the building or at a separate parking area on each Plot Plan. RPIs  
25 agree that each Project building in excess of 100,000 square feet will be constructed with  
26 necessary infrastructure (conduit and electrical capacity) to support the installation of  
27 one Level 3 EVSE (DC Fast Charging) per building. Additionally, the  
28 owners/developers of Plot Plan 17788 agree to pay for one Level 3 charging station, at  
an approximate cost of \$75,000, to be installed by the owners/developers of that Plot  
Plan concurrent with the Plot Plan's construction. However, within thirty (30) days of  
the execution of this Settlement by the Parties, the CCAEJ may elect to have the  
owners/developers of Plot Plan 17788 deposit an additional sum of \$75,000 into the  
Trust Account to be put towards additional air quality mitigation, with the deposit of the

1 funds being required at the time that Plot Plan 17788 receives a building permit. Such  
2 election shall be made in writing, and the notice of any such election shall be provided in  
3 the manner identified in the "Notices" term of the Consent Judgment. To the extent that  
4 no written election is made, then the owners/developers of Plot Plan 17788 shall install  
5 one Level 3 charging station as specified above. To the extent that a written election is  
6 made, the deposit of the \$75,000 into the Trust Account would absolve Plot Plan 17788  
7 from the requirement identified herein to pay for one Level 3 charging station. As part  
8 of its settlement of the Litigation, RPIs have specifically requested the City to include  
9 this term as a mitigation measure for the Project as set forth in Attachment 1 to this  
10 Exhibit, and the City agrees to honor RPIs' request.

11 **11. Green Building:** RPIs agree to construct Project buildings in excess of 100,000  
12 square feet at a LEED Silver or higher level. As part of its settlement of the Litigation,  
13 RPIs have specifically requested the City to include this term as a mitigation measure for  
14 the Project as set forth in Attachment 1 to this Exhibit, and the City agrees to honor  
15 RPIs' request.

16 **12. Mira Loma Mitigation Trust Account:** Within thirty (30) days of the entry of  
17 the Consent Judgment, the RPIs and CCAEJ shall execute a written trust agreement  
18 establishing the Mira Loma Mitigation Trust Account ("Trust Account") to be  
19 administered by CCAEJ. Thereafter, upon 1) the issuance of the first building permit for  
20 any of the Project's Plot Plans or 2) four (4) weeks prior to the commencement of  
21 grading within Plot Plans 18876 or 18877, whichever occurs first, the RPIs shall deposit  
22 a total of \$303,100 into the Trust Account, which includes \$175,100 for Air Filtration  
23 Systems and \$43,000 for Trust Account administration costs as identified in Paragraph 4  
24 of this Exhibit A, and \$85,000 for Air Monitoring activities as defined in Paragraph 9 of  
25 this Exhibit A. The governing purpose of the Trust Account shall be to fund mitigation  
26 to evaluate and/or reduce the localized air quality impacts of the Project, and to cover  
27 any administrative costs incurred by the CCAEJ in managing the trust account.  
28 Specifically, the monies in the Trust Account shall be allocated in a manner to fund the  
measures described in Paragraphs 4 and 9 of this Exhibit. In the event that CCAEJ, in  
consultation with SCAQMD, determines that there are insufficient funds for certain  
mitigation, that the mitigation is unnecessary, or that other mitigation is preferable, the  
funds in the Trust Account will be available to fund other mitigation to reduce the  
Project's air quality impacts, such as the Restricted Truck Route ordinance described in  
Paragraph 3 above, as determined by CCAEJ in consultation with the Attorney General's  
Office and SCAQMD. The administration of the Trust Account shall be consistent with  
applicable laws and regulations governing trust regulations. The Trust Account shall be  
maintained for four years following the entry of the Consent Judgment. To the extent  
that funds within the Trust Account are not exhausted by the end of that four year period,  
the funds shall be distributed to CCAEJ to be used at CCAEJ's discretion, in  
consultation with the Attorney General's Office and SCAQMD, to evaluate and/or  
reduce the Project's localized air quality impacts.

**13. Parties' Support for City's Efforts to Implement Settlement:** Each of the  
Parties hereto, except the People, agrees to publically express their support in written or  
oral communications to the City Council for the City's efforts to fulfill its obligations to  
implement the requirements of this Consent Judgment; provided, however, that the

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Parties shall retain their rights to object to an action or proposed action of the City Council or the City Staff that the Party does not believe fulfills the City's obligation under this Consent Judgment.

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**Attachment 1**  
**(Revised Mitigation Monitoring and Reporting Program)**

## Consent Judgment Mitigation Monitoring and Reporting Program

### Consent Judgment – Mitigation Measures

The following Mitigation Monitoring and Reporting Program reflects mitigation measures that have been added and imposed through the Riverside County Superior Court’s entry of a Consent Judgment in the matter styled *Center for Community Action and Environmental Justice (CCA EJ) et al. v. County of Riverside et al.* (Riverside County Superior Court Case Number 1112063), which challenged the approval of Plot Plans 16979, 17788, 18875, 18876, 18877, and 18879 on California Environmental Quality Act and other grounds. These mitigation measures are mandatory and binding on each of the Project Plot Plans, unless specified otherwise herein. In the event of a conflict between this MMRP and the Consent Judgment, the Consent Judgment shall control. This Consent Judgment Mitigation Monitoring and Reporting Program applies in addition to – not in place of – the MMRP that was previously adopted for the Project by the County of Riverside on June 14, 2011.

| Impact Category                  | Mitigation Measure   | Implementation Timing  | Monitoring/ Reporting Method   | Responsible Monitoring Party |
|----------------------------------|--|--|--|------------------------------|
| Air Quality and Greenhouse Gases | <p><b>Restricted Truck Route Ordinance.</b> The City shall use its best efforts to conduct proceedings for the adoption of an ordinance restricting trucks with gross vehicle weight rating (GVWR) over 16,000 lbs. from accessing the portion of Etiwanda Avenue adjacent to Mira Loma Village (between the 60 Freeway and Hopkins Street). The restricted truck route ordinance proceedings shall comply with the California Environmental Quality Act (CEQA), and may include a study to determine if there are potential alternate routes for trucks with GVWR over 16,000 lbs on roadways other than Etiwanda Avenue described above.</p> | Within fifteen (15) months of the entry of the Consent Judgment. | Any proceeding to adopt such an ordinance shall be publicly noticed. | City of Jurupa Valley        |
|                                  | <p><b>Restricted Truck Route Ordinance Alternative.</b> In the event that the City does not adopt a restricted truck route ordinance within two years of the entry of the Consent Judgment, the Project Applicants shall request of all initial tenants, in writing, that any trucks accessing the Project site with</p>   | Two years following the entry of the Consent Judgment.           | The Project Applicants shall copy the City on their written request. | City of Jurupa Valley        |

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|   | <p>GVWR over 16,000 lbs. owned or operated by tenants of the Project buildings avoid traveling on the portion of Etiwanda Avenue adjacent to Mira Loma Village (between the 60 Freeway and Hopkins Street).</p>   |  |  |                              |
|   | <p><b>Restricted Truck Route Payment.</b> The Project Applicants shall deposit \$20,000 into an escrow account opened pursuant to the Consent Judgment for the cost of the study and environmental review associated with the consideration of a restricted truck route ordinance.</p>  | <p>Following the City’s execution of a contract with a consultant retained to study and prepare environmental documentation of the restricted truck route and within ten (10) days of the City’s provision of written notice to the Project Applicants of the same.</p>  | <p>The City shall notify Project Applicants in writing of the City’s execution of a contract with a consultant.</p>          | <p>City of Jurupa Valley</p> |
| <p>Air Quality and Greenhouse Gases</p> | <p><b>Air Filtration Systems.</b> The Project Applicants shall fund the purchase, installation and maintenance of in-home air filtration systems for each qualifying residential parcel within Mira Loma Village at a cost of \$1,700 per parcel, plus an additional \$43,000 sum to cover administration costs. “Qualifying residential parcels” are the 103 eligible residential parcels reflected in the map attached to the Consent Judgment as Attachment 2. The air filtration systems shall be selected by the owners of each parcel, although recommendations as to the filtration systems selected may be provided to the parcel owners by the CCAEJ in consultation with the South Coast Air Quality Management District (SCAQMD).</p> <p>In the event that CCAEJ, in consultation with SCAQMD, determines that the air filtration systems will not be effective or necessary, the funds designated for air filtration systems in the Trust Account will be available to fund other mitigation to reduce the Project’s air quality impacts, as determined by CCAEJ in consultation with the Attorney General’s Office and SCAQMD. If the air filtration systems are determined by CCAEJ to be effective, then, the designated funds in the Trust Account shall be distributed to Mira</p> | <p>Within thirty (30) days of the entry of the Consent Judgment, the Project Applicants and CCAEJ shall execute a written trust agreement establishing the Mira Loma Mitigation Trust Account (“Trust Account”) to be administered by CCAEJ. Thereafter, upon 1) the issuance of the first building permit for any of the Project’s Plot Plans or 2) four (4) weeks prior to the commencement of grading within Plot Plans 18876 or 18877, whichever occurs first, the Project Applicants shall deposit into the Trust Account \$175,100 for Air Filtration Systems and \$43,000 for Trust Account administration costs.</p> | <p>Trustee shall provide written confirmation of deposit to CCAEJ in the manner required in the written trust agreement.</p> | <p>CCA EJ</p>                |



|   |   |  |   |                              |
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|   | <p>Loma Village residents upon presentation to the trust administrator of evidence showing that the resident is a parcel owner and receipts documenting air filtration system purchase, installation, and/or maintenance costs and/or expenditures on other air quality mitigation expenditures. Similarly, designated funds in the Trust Account may also be distributed directly to air filtration contractors or installers upon presentation to the trust administrator of an invoice or other evidence documenting that the contractor or installer has – on behalf of the parcel owner – purchased, installed, or maintained an air filtration system or made other air quality mitigation expenditures.</p>  |  |   |                              |
| <p>Air Quality and Greenhouse Gases</p> | <p><b>Anti-Idling Enforcement.</b> Within seven (7) months from the entry of the Consent Judgment, the City agrees to use its best efforts to implement a program to enforce the Air Resources Board’s (“ARB”) anti-idling regulation (Cal. Code Regs., tit. 13, § 2485) either through its enforcement of the ARB Regulations or through its adoption of a City truck anti-idling ordinance. The City further agrees to the hiring/assigning of a code enforcement officer, whose duties shall include the enforcement of ARB’s anti-idling regulation on a City-wide basis, including the vicinity of the Project. The extent of enforcement activity and the hiring or assigning of a code enforcement officer for the truck anti-idling enforcement program shall be subject to the City Council’s discretion in establishing budget priorities for the City and the consequent budgeting of funds for enforcement of the truck anti-idling program. Such measure shall apply on a City-wide basis and is not solely applicable to the Project.</p> | <p>Within thirty (30) days of the entry of the Consent Judgment, the Project Applicants shall deposit \$30,000 into an escrow account opened pursuant to the Consent Judgment.</p> <p>Within seven (7) months from the entry of the Consent Judgment, the City agrees to use its best efforts to implement the program called for by this measure.</p> | <p>Escrow Company shall provide written confirmation of deposit to City and Project Applicants.</p> | <p>City of Jurupa Valley</p> |
| <p>Air Quality and Greenhouse Gases</p> | <p><b>Clean Trucks.</b> In place of Plot Plan 17788 Condition of Approval 10.PLANNING.52 (which applies <i>only</i> to Plot Plan 17788), the</p>  | <p>The diesel minimization plan shall be put in place for each Plot Plan prior to the commencement of the operation of diesel</p>  | <p>The Project tenants shall maintain evidence of</p>   | <p>City of Jurupa Valley</p> |

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|   | <p>Project Applicants shall establish a diesel minimization plan requiring that at least ninety percent (90%) of the trucks with GVWR greater than 16,000 lbs. that both visit the Project site and are owned or operated by a tenant of one of the Plot Plan buildings, shall meet or exceed 2007 model year emissions equivalent engine standards as currently defined in California Code of Regulations Title 13, Division 3, Chapter 1, Article 4.5, Section 2025. The diesel minimization plan shall include a provision that requires Project tenants who own or operate trucks of the size described above to maintain evidence of compliance with the diesel minimization plan, including license plates, engine model year, retrofit technology if applicable, and engine family name. Evidence of compliance shall be available for inspection upon reasonable notice provided to the owner/operator of a request to inspect such documentation.</p> | <p>trucks with GVWR greater than 16,000 lbs. that both visit the Project site and are owned or operated by a tenant of one of the Plot Plan buildings</p> <p>From the date that the Consent Judgment is entered and for ten (10) years thereafter, Project tenants shall maintain the requisite evidence of compliance called for in the Clean Trucks Mitigation Measures.</p> | <p>compliance.</p>  |                              |
| <p>Air Quality, Greenhouse Gases, and Aesthetic Impacts</p> | <p><b>Buffers for Plot Plan 18876.</b> The owner/developer of Plot Plan 18876 shall include a partially landscaped setback between the Mira Loma Village houses and the buildings within Plot Plan 18876 along the northern boundary of Mira Loma Village. The setback shall be as determined by the property owner but in no event shall be less than sixty-six (66) feet wide as measured from the edge of the buildings within Plot Plan 18876 to the existing wall separating Mira Loma Village from Plot Plan 18876.</p> <p>Concurrent with the construction of Plot Plan buildings adjacent to the Mira Loma Village, the Project Applicants shall enhance the vegetative portions of the setback and buffer zones along the northern and eastern boundaries of Mira Loma Village within the Project site. Specifically, the Project Applicants shall plant and maintain a</p>   | <p>Prior to issuance of first certificate of occupancy on Plot Plan 18876.</p>   | <p>Confirmation prior to issuance of first certificate of occupancy on Plot Plan 18876.</p> | <p>City of Jurupa Valley</p> |

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|  | <p>vegetative buffer zone along the northern boundary of the Mira Loma Village (in Plot Plan 18876) in a manner determined by the property owner, but including not less than twenty 24" box California Pepper Trees and ten 24" box Bottlebrush trees.</p> <p>Additionally, Plot Plan 18876 shall include not fewer than eight 24" box Sycamore Trees in its parking lot adjacent to the northern boundary of Mira Loma Village. Furthermore, the Project Applicants shall, concurrent with the construction of Plot Plan buildings adjacent to the Mira Loma Village, landscape areas being dedicated by the Project as public parks near the Mira Loma Village's eastern boundary (a total of approximately 52,000 square feet) with drought tolerant plants, including not less than 50% Buffalo Grass turf by area, and, further, to provide a vegetative buffer in those park areas and along the remainder of the Mira Loma Village's eastern edge, including not less than eight 24" box American Sycamore trees, twenty 24" box California Pepper Trees, and not fewer than fifteen 24" box Bottlebrush trees.</p> <p>Finally, the Project Applicants shall offer not less than two 24" box shade trees to each of the ten property owners who own a home immediately adjacent to the southern boundary of Plot Plan 18876</p> |   |  |                              |
|  | <p><b>Buffers for Plot Plans 18877 and 18879.</b> Additionally, Plot Plans 18877 and 18879 shall include a combined total of not less than eight 24" box American Sycamore trees in their parking lots adjacent to the eastern boundary of Mira Loma Village.</p>   | <p>Prior to issuance of first certificate of occupancy on Plot Plans 18877 and 18879.</p> | <p>Confirmation prior to issuance of first certificate of occupancy on Plot Plans 18877 and 18879.</p> | <p>City of Jurupa Valley</p> |
|  | <p><b>Additional Buffer.</b> Additionally, the Project Applicants shall modify the Project buildings immediately adjacent to the Mira Loma Village's northern boundary by reducing the</p>  | <p>Prior to issuance of first certificate of occupancy for Plot Plan 18876.</p>           | <p>Confirmation prior to issuance of first certificate of occupancy.</p>                               | <p>City of Jurupa Valley</p> |

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|                                  | elevated building parapets in order to reduce visual impacts.   |  |   |                       |
| Air Quality and Greenhouse Gases | <b>Photovoltaic Installation.</b> All Project building in excess of 100,000 square feet shall be constructed as solar ready buildings (including the upgrade of building structural, electrical and roofing systems in a manner sufficient to support the installations of photovoltaic solar systems).   | Prior to the issuance of the certificate of occupancy for each building over 100,000 square feet.  | Confirmation prior to issuance of first certificate of occupancy for each building over 100,000 square feet.  | City of Jurupa Valley |
|                                  | The Project Applicants shall apply to Southern California Edison's ("SCE") solar program and to other programs that may provide financing for the installation of solar photovoltaic systems ("PV Systems") on the Project site. To the extent that the Project Applicants obtain a grant or rebate providing a financial offset for the cost of the PV Systems, the Project Applicants shall install PV solar capacity up to the amount of the grant or rebate but in no event would the PV Systems be less than 100 kW. To the extent that the Project Applicants do not obtain a grant or rebate, the Project Applicants shall install one or more PV Systems on the Project site providing a Project-wide total of 100 kW capacity. In the event that there are alternatives to the PV Systems deemed reasonably equivalent in reducing/offsetting global greenhouse affects, if the alternatives are approved by the Attorney General's Office and CCAEJ, the Project Applicants may at their election implement those in place of the PV Systems. | The Project Applicants shall submit an application to SCE prior to the issuance of the first certificate of occupancy for any building in excess of 100,000 square feet.<br><br>Installation of the system shall occur prior to the issuance of the last certificate of occupancy for any Project building.                                    | The Project Applicants shall submit to the City copies of the Project Applicants' completed SCE applications.   | City of Jurupa Valley |
| Air Quality and Greenhouse Gases | <b>Air Monitoring.</b> The Project Applicants shall contribute \$85,000 in order to (1) fund activities related to measuring black carbon levels and/or other indicators of diesel particulate matter in the Mira Loma Village vicinity, including the installation and maintenance of an air monitoring station; and/or (2) provide additional funds which   | Within thirty (30) days of the entry of the Consent Judgment, the Project Applicants and CCAEJ shall execute a written trust agreement establishing the Mira Loma Mitigation Trust Account ("Trust Account") to be administered by CCAEJ. Thereafter, upon 1) the issuance of the first building permit for any of the Project's Plot Plans or | Air monitoring data from the air monitoring station shall be made available to the CCAEJ and SCAQMD in a manner to be determined by CCAEJ and SCAQMD during the | CCA/EJ/SCAQMD         |

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|                                  | <p>may be made available to the City of Jurupa Valley in order to complete the Restricted Truck Route term.</p> <p>In the event that the CCAEJ, in consultation with SCAQMD, determines that the air monitoring activities will not be effective or necessary, or that the donation of the funds to the City of Jurupa Valley for the completion of the Restricted Truck Route term is preferable, the funds designated for air monitoring in the Trust Account will be available to fund such other mitigation to reduce the Project’s air quality impacts, as determined by CCAEJ in consultation with the Attorney General’s Office and SCAQMD.</p> | <p>2) four (4) weeks prior to the commencement of grading within Plot Plans 18876 or 18877, whichever occurs first, the Project Applicants shall deposit into the Trust Account \$85,000 for Air Monitoring activities.</p> | <p>design and installation of the air monitoring station.</p>  |                       |
| Air Quality and Greenhouse Gases | <p><b>Electrification.</b> Project Applicants agree to install and maintain a minimum of two Level 2 Electric Vehicle Supply Equipment (“EVSE”) at each Plot Plan with buildings in excess of 100,000 square feet, placed in a manner that allows charging of trucks or vehicles at each loading dock of the building or at a separate parking area on each Plot Plan. Project Applicants agree that each Project building in excess of 100,000 square feet will be constructed with necessary infrastructure (conduit and electrical capacity) to support the installation of one Level 3 EVSE (DC Fast Charging) per building.</p>                   | <p>Prior to the issuance of the first certificate of occupancy for each building over 100,000 square feet.</p>  | <p>Confirm prior to issuance of first certificate of occupancy for each building over 100,000 square feet.</p> | City of Jurupa Valley |
|                                  | <p><b>Electrification for Plot Plan 17788.</b> The owners/developers of Plot Plan 17788 agree to pay for one Level 3 charging station, at an approximate cost of \$75,000, to be installed by the owners/developers of that Plot Plan concurrent with the Plot Plan’s construction. However, within thirty (30) days of the execution of this Settlement by the Parties, the CCAEJ may elect to have the</p>   | <p>Prior to the issuance of any certificate of occupancy for Plot Plan 17788.</p>   | <p>Confirm prior to issuance of certificate of occupancy for Plot Plan 17788.</p>                              | City of Jurupa Valley |

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|   | <p>owners/developers of Plot Plan 17788 deposit an additional sum of \$75,000 into the Trust Account to be put towards additional air quality mitigation, with the deposit of the funds being required at the time that Plot Plan 17788 receives a building permit. Such election shall be made in writing, and the notice of any such election shall be provided in the manner identified in the “Notices” term of the Consent Judgment. To the extent that no written election is made, then the owners/developers of Plot Plan 17788 shall install one Level 3 charging station as specified above. To the extent that a written election is made, the deposit of the \$75,000 into the Trust Account would absolve Plot Plan 17788 from the requirement identified herein to pay for one Level 3 charging station.</p> |   |   |                              |
| <p>Air Quality and Greenhouse Gases</p> | <p><b>Green Building.</b> The Project Applicants shall construct Project buildings in excess of 100,000 square feet at a LEED Silver or higher level.</p>  | <p>Prior to the issuance of a certificate of occupancy for any building over 100,000 square feet.</p> | <p>Confirm prior to issuance of a certificate of occupancy for any building over 100,000 square feet.</p> | <p>City of Jurupa Valley</p> |

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**Attachment 2**  
**(Map of the Mira Loma Village's 103 Residential Parcels)**



Mira Loma Village



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**EXHIBIT B**

(Environmental Justice at the Local and Regional Level – Legal Background (Office of the Attorney General - July 10, 2012)



**Environmental Justice at the Local and Regional Level**  
**Legal Background**

Cities, counties, and other local governmental entities have an important role to play in ensuring environmental justice for all of California's residents. Under state law:

“[E]nvironmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

(Gov. Code, § 65040.12, subd. (e).) Fairness in this context means that the *benefits* of a healthy environment should be available to everyone, and the *burdens* of pollution should not be focused on sensitive populations or on communities that already are experiencing its adverse effects.

Many local governments recognize the advantages of environmental justice; these include healthier children, fewer school days lost to illness and asthma, a more productive workforce, and a cleaner and more sustainable environment. Environmental justice cannot be achieved, however, simply by adopting generalized policies and goals. Instead, environmental justice requires an ongoing commitment to identifying existing and potential problems, and to finding and applying solutions, both in approving specific projects and planning for future development.

There are a number of state laws and programs relating to environmental justice. This document explains two sources of environmental justice-related responsibilities for local governments, which are contained in the Government Code and in the California Environmental Quality Act (CEQA).

**Government Code**

Government Code section 11135, subdivision (a) provides in relevant part:

No person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state....

While this provision does not include the words “environmental justice,” in certain circumstances, it can require local agencies to undertake the same consideration of fairness in the distribution of environmental benefits and burdens discussed above. Where, for example, a general plan update is funded by or receives financial assistance from the state or a state agency, the local government should take special care to ensure that the plan's goals, objectives, policies

and implementation measures (a) foster equal access to a clean environment and public health benefits (such as parks, sidewalks, and public transportation); and (b) do not result in the unmitigated concentration of polluting activities near communities that fall into the categories defined in Government Code section 11135.<sup>1</sup> In addition, in formulating its public outreach for the general plan update, the local agency should evaluate whether regulations governing equal “opportunity to participate” and requiring “alternative communication services” (e.g., translations) apply. (See Cal. Code Regs., tit. 22, §§ 98101, 98211.)

Government Code section 11136 provides for an administrative hearing by a state agency to decide whether a violation of Government Code section 11135 has occurred. If the state agency determines that the local government has violated the statute, it is required to take action to “curtail” state funding in whole or in part to the local agency. (Gov. Code, § 11137.) In addition, a civil action may be brought in state court to enforce section 11135. (Gov. Code, § 11139.)

### **California Environmental Quality Act (CEQA)**

Under CEQA, “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects ....” (Pub. Res. Code, § 21002.) Human beings are an integral part of the “environment.” An agency is required to find that a “project may have a ‘significant effect on the environment’” if, among other things, “[t]he environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly[.]” (Pub. Res. Code, § 21083, subd. (b)(3); see also CEQA Guidelines,<sup>2</sup> § 15126.2 [noting that a project may cause a significant effect by bringing people to hazards].)

CEQA does not use the terms “fair treatment” or “environmental justice.” Rather, CEQA centers on whether a project may have a significant effect on the physical environment. Still, as set out below, by following well-established CEQA principles, local governments can further environmental justice.

#### **CEQA’s Purposes**

The importance of a healthy environment for all of California’s residents is reflected in CEQA’s purposes. In passing CEQA, the Legislature determined:

- “The maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.” (Pub. Res. Code, § 21000, subd. (a).)
- We must “identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds from being reached.” (*Id.* at subd. (d).)

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<sup>1</sup> To support a finding that such concentration will not occur, the local government likely will need to identify candidate communities and assess their current burdens.

<sup>2</sup> The CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15000, et seq.) are available at <http://ceres.ca.gov/ceqa/>.

- “[M]ajor consideration [must be] given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.” (*Id.* at subd. (g).)
- We must “[t]ake all action necessary to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise.” (Pub. Res. Code, § 21001, subd. (b).)

Specific provisions of CEQA and its Guidelines require that local lead agencies consider how the environmental and public health burdens of a project might specially affect certain communities. Several examples follow.

### Environmental Setting and Cumulative Impacts

There are a number of different types of projects that have the potential to cause physical impacts to low-income communities and communities of color. One example is a project that will emit pollution. Where a project will cause pollution, the relevant question under CEQA is whether the environmental effect of the pollution is significant. In making this determination, two long-standing CEQA considerations that may relate to environmental justice are relevant – setting and cumulative impacts.

It is well established that “[t]he significance of an activity depends upon the setting.” (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718 [citing CEQA Guidelines, § 15064, subd. (b)]; see also *id.* at 721; CEQA Guidelines, § 15300.2, subd. (a) [noting that availability of listed CEQA exceptions “are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant.”]) For example, a proposed project’s particulate emissions might not be significant if the project will be located far from populated areas, but may be significant if the project will be located in the air shed of a community whose residents may be particularly sensitive to this type of pollution, or already are experiencing higher-than-average asthma rates. A lead agency therefore should take special care to determine whether the project will expose “sensitive receptors” to pollution (see, e.g., CEQA Guidelines, App. G); if it will, the impacts of that pollution are more likely to be significant.<sup>3</sup>

In addition, CEQA requires a lead agency to consider whether a project’s effects, while they might appear limited on their own, are “cumulatively considerable” and therefore significant. (Pub. Res. Code, § 21083, subd. (b)(3).) “[C]umulatively considerable” means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future

<sup>3</sup> “[A] number of studies have reported increased sensitivity to pollution, for communities with low income levels, low education levels, and other biological and social factors. This combination of multiple pollutants and increased sensitivity in these communities can result in a higher cumulative pollution impact.” Office of Environmental Health Hazard Assessment, *Cumulative Impacts: Building a Scientific Foundation* (Dec. 2010), Exec. Summary, p. ix, available at <http://oehha.ca.gov/ej/cipa123110.html>.

projects.” (*Id.*) This requires a local lead agency to determine whether pollution from a proposed project will have significant effects on any nearby communities, when considered together with any pollution burdens those communities already are bearing, or may bear from probable future projects. Accordingly, the fact that an area already is polluted makes it *more likely* that any additional, unmitigated pollution will be significant. Where there already is a high pollution burden on a community, the “relevant question” is “whether any additional amount” of pollution “should be considered significant in light of the serious nature” of the existing problem. (*Hanford, supra*, 221 Cal.App.3d at 661; see also *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1025 [holding that “the relevant issue ... is not the relative amount of traffic noise resulting from the project when compared to existing traffic noise, but whether any additional amount of traffic noise should be considered significant in light of the serious nature of the traffic noise problem already existing around the schools.”])

### The Role of Social and Economic Impacts Under CEQA

Although CEQA focuses on impacts to the physical environment, economic and social effects may be relevant in determining significance under CEQA in two ways. (See CEQA Guidelines, §§ 15064, subd. (e), 15131.) First, as the CEQA Guidelines note, social or economic impacts may lead to physical changes to the environment that are significant. (*Id.* at §§ 15064, subd. (e), 15131, subd. (a).) To illustrate, if a proposed development project may cause economic harm to a community’s existing businesses, and if that could in turn “result in business closures and physical deterioration” of that community, then the agency “should consider these problems to the extent that potential is demonstrated to be an indirect environmental effect of the proposed project.” (See *Citizens for Quality Growth v. City of Mt. Shasta* (1988) 198 Cal.App.3d 433, 446.)

Second, the economic and social effects of a physical change to the environment may be considered in determining whether that physical change is significant. (*Id.* at §§ 15064, subd. (e), 15131, subd. (b).) The CEQA Guidelines illustrate: “For example, if the construction of a new freeway or rail line divides an existing community, the construction would be the physical change, but the social effect on the community would be the basis for determining that the effect would be significant.” (*Id.* at § 15131, subd. (b); see also *id.* at § 15382 [“A social or economic change related to a physical change may be considered in determining whether the physical change is significant.”])

### Alternatives and Mitigation

CEQA’s “substantive mandate” prohibits agencies from approving projects with significant environmental effects if there are feasible alternatives or mitigation measures that would substantially lessen or avoid those effects. (*Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105, 134.) Where a local agency has determined that a project may cause significant impacts to a particular community or sensitive subgroup, the alternative and mitigation analyses should address ways to reduce or eliminate the project’s impacts to that community or subgroup. (See CEQA Guidelines, § 15041, subd. (a) [noting need for “nexus” between required changes and project’s impacts].)

Depending on the circumstances of the project, the local agency may be required to consider alternative project locations (see *Laurel Heights Improvement Assn. v. Regents of University of*

*California* (1988) 47 Cal.3d 376, 404) or alternative project designs (see *Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1183) that could reduce or eliminate the effects of the project on the affected community.

The lead agency should discuss and develop mitigation in a process that is accessible to the public and the affected community. “Fundamentally, the development of mitigation measures, as envisioned by CEQA, is not meant to be a bilateral negotiation between a project proponent and the lead agency after project approval; but rather, an open process that also involves other interested agencies and the public.” (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 93.) Further, “[m]itigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments.” (CEQA Guidelines, § 15126.4, subd. (a)(2).)

As part of the enforcement process, “[i]n order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented,” the local agency must also adopt a program for mitigation monitoring or reporting. (CEQA Guidelines, § 15097, subd. (a).) “The purpose of these [monitoring and reporting] requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation of Hillside and Canyon Assns. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261.) Where a local agency adopts a monitoring or reporting program related to the mitigation of impacts to a particular community or sensitive subgroup, its monitoring and reporting necessarily should focus on data from that community or subgroup.

#### Transparency in Statements of Overriding Consideration

Under CEQA, a local government is charged with the important task of “determining whether and how a project should be approved,” and must exercise its own best judgment to “balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian.” (CEQA Guidelines, § 15021, subd. (d).) A local agency has discretion to approve a project even where, after application of all feasible mitigation, the project will have unavoidable adverse environmental impacts. (*Id.* at § 15093.) When the agency does so, however, it must be clear and transparent about the balance it has struck.

To satisfy CEQA’s public information and informed decision making purposes, in making a statement of overriding considerations, the agency should clearly state not only the “specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits” that, in its view, warrant approval of the project, but also the project’s “unavoidable adverse environmental effects[.]” (*Id.* at subd. (a).) If, for example, the benefits of the project will be enjoyed widely, but the environmental burdens of a project will be felt particularly by the neighboring communities, this should be set out plainly in the statement of overriding considerations.

\* \* \* \*

The Attorney General's Office appreciates the leadership role that local governments have played, and will continue to play, in ensuring that environmental justice is achieved for all of California's residents. Additional information about environmental justice may be found on the Attorney General's website at <http://oag.ca.gov/environment>.

1 **PROOF OF SERVICE**

2 At the time of service I was over 18 years of age and not a party to this action. My  
3 business address is 3390 University Avenue, 5th Floor, P.O. Box 1028, Riverside, California  
4 92502. On February 8, 2013, I served the following document(s):

5 **[PROPOSED] CONSENT JUDGMENT**

6  **By fax transmission.** Based on an agreement of the parties to accept service by  
7 fax transmission, I faxed the documents to the persons at the fax numbers listed  
8 below. No error was reported by the fax machine that I used. A copy of the record  
9 of the fax transmission, which I printed out, is attached.

10  **By United States mail.** I enclosed the documents in a sealed envelope or package  
11 addressed to the persons at the addresses listed below (specify one):

12  Placed the envelope for collection and mailing, following our ordinary  
13 business practices. I am readily familiar with this business's practice for  
14 collecting and processing correspondence for mailing. On the same day that  
15 correspondence is placed for collection and mailing, it is deposited in the  
16 ordinary course of business with the United States Postal Service, in a  
17 sealed envelope with postage fully prepaid.

18  **By messenger service.** I served the documents by placing them in an envelope or  
19 package addressed to the persons at the addresses listed below and providing them  
20 to a professional messenger service for service. A Declaration of Messenger is  
21 attached.

22  **By overnight delivery.** I enclosed the documents in an envelope or package  
23 provided by an overnight delivery carrier and addressed to the persons at the  
24 addresses listed below. I placed the envelope or package for collection and  
25 overnight delivery at an office or a regularly utilized drop box of the overnight  
26 delivery carrier.

27 **SEE ATTACHED SERVICE LIST**

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

Executed on February 8, 2013, at Riverside, California.

  
Lynda A. Byrd

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