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October 25, 2024

Via U.S. Mail and Email

Scott Webb, Deputy City Manager
Development Department
City of Victorville
14343 Civic Drive
Victorville, California 92392
swebb@victorvilleca.gov
planning@victorvilleca.gov

Via Email Only

Travis Clark, Senior Planner
tclark@victorvilleca.gov

Re: **Request for Extension of Comment Period for Initial Study/Mitigated Negative Declaration: 55555 Amargosa LLC, Warehouse Development Project (SCH No. 2024100081; Site Plan Case No. PLAN23-00003)**

Dear Mr. Webb and Mr. Clark:

We write on behalf of **Californians Allied for a Responsible Economy ("CARE CA")** to respectfully request that the City of Victorville ("City") (1) immediately provide access to all documents referenced and relied upon in the Initial Study/Mitigated Negative Declaration¹ ("IS/MND") for the 55555 Amargosa LLC, Warehouse Development Project (SCH No. 2024100081; Site Plan No. PLAN23-00003) ("Project") and (2) extend public review and comment period by a minimum of 30 days from the date all IS/MND reference materials are made available to CARE CA and other members of the public. The City's failure to make the IS/MND reference documents available for public review during the California Environmental Quality Act ("CEQA") comment period is a violation of CEQA and of the public's right to review the supporting evidence for the IS/MND.

¹ City of Victorville, Draft Initial Study and Mitigated Negative Declaration (Sept. 18, 2024) (hereinafter "IS/MND"), *available at* <https://www.victorvilleca.gov/home/showpublisheddocument/16254/638636368407870000>.

On October 18, 2024, CARE CA submitted a request for immediate access to any and all documents referenced or relied upon in the IS/MND² as well as a request for immediate access to any and all public records referring or related to the Project.³ These requests were made pursuant to the Public Resources Code § 21092(b)(1), which requires that all documents *referenced* in an environmental review document be made available to the public for the entire comment period, as well as the California Public Records Act (“CPRA”), Government Code § 7922.525, which requires public records to be “open to inspection at all times during the office hours of the state or local agency” and provides that “every person has a right to inspect any public record.”

On October 25, 2024, the City responded that it had disclosable records, but stated that these records would not be made available until November 4, 2024 – the final day of the IS/MND public comment period.⁴ The City also claimed that “[a]ll available environmental documents are uploaded to the City’s website.”⁵ This statement is inaccurate and conflates CARE CA’s request for access to IS/MND reference documents under CEQA with its CPRA request.

CEQA affords the public a right of access to the reference documents and supporting evidence that the lead agency is relying on to support the conclusions and findings in an MND during the public comment period.⁶ It is well settled that a CEQA document may not rely on hidden studies or documents that are not provided to the public.⁷ The courts have held that the failure to provide even a few pages of a CEQA document for a portion of the CEQA review period invalidates the entire CEQA process, and that such a failure must be remedied by permitting additional public comment.⁸

² Letter to Scott Webb, City of Victorville from Sheila M. Sannadan, Adams Broadwell Joseph & Cardozo re: Request for Immediate Access to Documents Referenced in the Initial Study/Mitigated Negative Declaration – Amargosa Industrial Warehouse Development Project (SCH No. 2024100081; Site Plan Case No. PLAN23-00003) (Oct. 18, 2024).

³ Letter to Scott Webb, City of Victorville from Sheila M. Sannadan, Adams Broadwell Joseph & Cardozo re: Request for Immediate Access to Public Records – Amargosa Industrial Warehouse Development Project (SCH No. 2024100081; Site Plan Case No. PLAN23-00003) (Oct. 18, 2024).

⁴ Email to Sheila M. Sannadan, Adams Broadwell Joseph & Cardozo from City of Victorville Public Records re: City of Victorville Public Records Request #24-1233 (Oct. 25, 2024).

⁵ *Ibid.*; see also City of Victorville, Environmental Review Notices, <https://www.victorvilleca.gov/government/city-departments/development/planning/environmental-review-notice> (last visited Oct. 25, 2024).

⁶ Pub. Resources Code § 21092(b)(1); Cal. Code Regs. § 15087(c)(5).

⁷ *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3d 818, 831 (“Whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.”).

⁸ *Ultramar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.

In this case, the City has not provided access to all reference materials cited in the IS/MND. Numerous reference documents are noted in the footnotes throughout the IS/MND; while some are available as appendices or via hyperlinks, several key documents remain inaccessible to the public. Specifically, the following references have not been made available: (1) the Employment Density Study,⁹ (2) personal communications with the Project architect,¹⁰ (3) Google Earth data,¹¹ (4) Google Maps and City of Victorville Zoning Map data,¹² (5) the Southern California Association of Governments' Regional Transportation Plan/Sustainable Communities Strategy,¹³ (6) data from the SoilWeb database,¹⁴ (7) *The Impact of Noise Pollution*,¹⁵ (8) Mineral Land Classification Map for the Victorville Quadrangle,¹⁶ and (9) all documents listed in the references sections of Appendix B.¹⁷

It is essential for CARE CA and other members of the public to have access to these documents to facilitate thoroughly review of the IS/MND. By failing to make all reference documents "readily available" during the entire public comment period, the City is not meeting the procedural requirements of CEQA, depriving CARE CA and other members of the public of a meaningfully opportunity to review and comment on the IS/MND. This lack of access throughout the public review period constitutes a violation of both CEQA and the CPRA. To remedy this deficiency, the City must extend the review period to allow for comprehensive public examination of the IS/MND.

Accordingly, CARE CA requests that the City:

- 1) immediately provide access to the missing referenced documents including, but not limited to, the documents identified above.
- 2) extend the public review and comment period on the IS/MND **for at least 30 days from the date on which the City releases *all* the referenced documents** for public review.

⁹ IS/MND at p. 16.

¹⁰ *Id.* at pp. 16, 99, 100.

¹¹ *Id.* at pp. 10, 71

¹² *Id.* at pp. 10, 15, 67, 73, 74.

¹³ *Id.* at p. 29.

¹⁴ *Id.* at pp. 54, 57.

¹⁵ *Id.* at p. 79.

¹⁶ *Id.* at p. 77.

¹⁷ *Id.*, appen. B, RCA Associates, Inc., General Biological Resources Assessment (Nov. 23, 2022) pp. 12-13.

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Given the short time before the current comment deadline expires, please contact me as soon as possible with your response to this request, but no later than the close of business on **Tuesday, October 29, 2024**.

Please feel free to call or email with any questions. Thank you for your prompt attention and response to this matter.

Sincerely,



Andrew J. Graf
Attorney

AJG:acp